

HON'BLE SRI JUSTICE P. KESHAHA RAO

CRIMINAL REVISION CASE No. 213 of 2018

ORDER:

Heard the counsel for the petitioners as well as the respondents.

The present revision case is filed questioning the docket order dated 11.08.2017 passed in C.C.No.176 of 2017 on the file of the Court of the Judicial First Class Magistrate, Special Mobile (PCR), at Karimnagar, in taking cognizance for the offences under Sections 498-A, 506, 420 IPC and Sections 3 and 4 of the Dowry Prohibition Act against the petitioners herein.

The brief facts of the case are that originally the second respondent herein filed a private complaint on the file of the Court of the Judicial First Class Magistrate, Special Mobile (PCR), at Karimnagar stating that one Mohammad Imran Ali and 8 others which include the petitioners for the offences under Section 498-A, 506, 420 IPC and Sections 3 and 4 of Dowry Prohibition Act. It is the case of the second respondent that she is the legally wedded wife of A-1. Her marriage was performed on 24.09.2016 at TNGOs Function Hall, Karimnagar as per Muslim customs and traditions. A-2 to A-9 are the family members of A-1. At the time of the marriage, the parents of the second respondent presented Rs.2.5 lakhs in cash, 9 tolas of gold ornaments and household articles worth Rs.3 lakhs. After the marriage, the second respondent joined the conjugal society of A-1 at Kashmeergadda, Karimnagar. When A-1 was not showing any interest to lead marital life, the second respondent when enquired, it was informed that he is not satisfied

with the amount given at the time of marriage and insisted for additional dowry of Rs.3 lakhs. The parents of the second respondent, gave additional dowry of Rs.2.5 lakhs on 8.11.2016. Even thereafter, A-1 was not interested to lead a marital life with second respondent and harassed her physically and mentally. A-2 to A-9 also harassed the second respondent. It is also stated in the complaint that when the second respondent insisted to lead marital life, A-1 voluntarily admitted that he is an impotent person and he married her only for the sake of dowry. He also further stated that if it is informed to anybody, he will kill the second respondent. The said fact was informed by the second respondent to her parents on 02.02.2017. When the parents of the second respondent rushed to the house of the first respondent, all the accused abused her in filthy language and they necked out the second respondent and her parents from her in-laws' house in the presence of the witnesses. In these circumstances, the second respondent filed a private complaint. The learned Magistrate, referred the matter to the police under Section 156(3) Cr.P.C. Pursuant thereto, a crime was registered vide FIR No.68 of 2017 for the offences under Sections 498-A, 506 and 420 IPC and Sections 3 and 4 of the Dowry Prohibition Act. After completion of investigation, a charge sheet was filed on 22.7.2017 deleting A-3 to A-6 and A-9 i.e. the petitioners herein. However, the Court below on 11.08.2017 after examining the entire record, taken cognizance of the above said offences against all the accused which include the petitioners herein who are not charge sheeted by the investigating officer. Questioning the said docket order, dated 11.08.2017 in taking the cognizance of

the above said offences against the petitioners herein, the present criminal revision case is filed.

Learned counsel appearing for the petitioners contended that the complaint do not disclose any allegation or act against the petitioners. No incident is referred about the harassment by the petitioners except the vague statement that A-2 to A-9 also involved for domestic harassment against the second respondent. He also contended that even a perusal of the charge sheet also would not indicate the establishment of any prima facie case against the petitioners for the offences mentioned supra. The Court below, without application of mind and without any reasons, simply taken the cognizance of the offences against the petitioners by observing in the statements of all the witnesses it is clearly mentioned the role of the accused, but there is no reason as to why the investigating officer has deleted the names of A-3 to A-6 and A-9.

Per contra, the learned Public Prosecutor appearing for the first respondent has fairly conceded that no specific allegation is made out against the petitioners herein either in the complaint filed by the second respondent herein or the charge sheet filed by the investigating officer.

Having heard both the learned counsel, and from a perusal of the material on record, the admitted facts are that the second respondent herein filed a complaint against the petitioners herein and others for commission of the offences under Sections 498-A, 506, 420 IPC and Sections 3 and 4 of the Dowry Prohibition Act. The said complaint was referred to police under Section 156(3) Cr.P.C.

Pursuant to the reference, a crime was registered and after investigation a charge sheet was filed. The learned Magistrate after taking cognizance of the offences, numbered the case as C.C.No.176 of 2017. This Court, during the course of hearing, perused the complaint copy, the statements of witnesses filed in the material papers and the charge sheet filed by the investigating officer. No prima facie case is made against the petitioners in respect of the offences alleged except one statement i.e. A-2 to A-9 were also involved for domestic harassment against the second respondent. Even the statements also, will not support the contention of the second respondent that the petitioners herein, have harassed. Basing on the statements and other investigation by the investigating officer in the charge sheet, he has deleted the names of the petitioners herein since no prima facie material is available against them. However, the Court below, without issuing any notice to the second respondent as to the deletion of the petitioners herein and without there being any material, more particularly, prima facie case against the petitioners for the offences under Sections 498-A, 506, 420 IPC and Sections 3 and 4 of the Dowry Prohibition Act, in a mechanical manner taken cognizance against all the accused which include the petitioners herein by observing that the petitioners herein are also involved for domestic harassment against the second respondent. In fact, there is no basis for such observation since the material placed on record will not disclose any case against the petitioners.

In the recent times, various complaints are being lodged for the offences under Section 498-A IPC and Sections 3 and 4 of

Dowry Prohibition Act, in which, whether any allegation is made out or not, all the family members are being roped in as accused only for the purpose of harassing the innocent family members whereby forcing them to come to terms. In *RAJESH SHARMA AND OTHERS v. STATE OF U.P. AND ANOTHER*¹, the Apex Court held asunder:

“Section [498A](#) was inserted in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife particularly when such cruelty had potential to result in suicide or murder of a woman as mentioned in the Statement of Objects and Reasons of the Act 46 of 1983. The expression 'cruelty' in Section [498A](#) covers conduct which may drive the women to commit suicide or cause grave injury (mental or physical) or danger to life or harassment with a view to coerce her to meet unlawful demand¹. It is a matter of serious concern that large number of cases continue to be filed Under Section [498A](#) alleging harassment of married women. We have already referred to some of the statistics from the Crime Records Bureau. This Court had earlier noticed the fact that most of such complaints are filed in the heat of the moment over trivial issues. Many of such complaints are not bona fide. At the time of filing of the complaint, implications and consequences are not visualized. At times such complaints lead to uncalled for harassment not only to the Accused but also to the complainant. Uncalled for arrest may ruin the chances of settlement. This Court had earlier observed that a serious review of the provision was warranted². The matter also appears to have been considered by the Law Commission, the Malimath Committee, the Committee on Petitions in the Rajya Sabha, the Home Ministry, which have been referred to in the earlier part of the Judgment. The abuse of the provision was also noted in the judgments of this

¹ 2017 (2) G.L.H. 818

Court referred to earlier. Some High Courts have issued directions to check such abuse”.

In the case on hand, there is absolutely no prima facie case is made out to take cognizance against the petitioners for the offences under Sections 498-A, 506, 420 IPC and Sections 3 and 4 of the Dowry Prohibition Act.

Under these circumstances, the criminal revision case is allowed setting aside the docket order dated 11.08.2017 passed in C.C.No.176 of 2017 on the file of the Court of the Judicial First Class Magistrate, Special Mobile (PCR), at Karimnagar, in taking cognizance for the offences under Sections 498-A, 506, 420 IPC and Sections 3 and 4 of the Dowry Prohibition Act against the petitioners herein.

Consequently, miscellaneous petitions, if any, pending in this criminal revision case shall stand closed.

P. KESHAVA RAO, J

Date:02.07.2018.
CCM

HONOURABLE SRI JUSTICE P. KESHA VA RAO



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Date:02.07.2018

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