

HONOURABLE SRI JUSTICE P. KESHA VA RAO

CRIMINAL PETITION No. 12595 of 2011

ORDER:

Heard the learned counsel for the petitioner as well as the respondents.

2. The petitioner who is A-6 in C.C.No.738 of 2010 filed the present criminal petition to quash the proceedings initiated against him for the offences punishable under Section 498-A IPC and Sections 5 and 6 of Dowry Prohibition Act on the file of the XIII Addl.Chief Metropolitan Magistrate at Nampally, Hyderabad.

3. The facts of the case are that the second respondent herein filed a complaint against the petitioner herein and others before the XIII Addl.Chief Metropolitan Magistrate at Nampally, Hyderabad under Section 200 Cr.P.C. The same was referred to the Station House Officer, Central Crime Station, Hyderabad under Section 156(3) Cr.P.C. In pursuance of the same, a crime vide F.I.R.No.507 of 2009 was registered for the offences punishable under Section 498-A IPC and Sections 5 and 6 of Dowry Prohibition Act. After completion of the investigation, charge sheet was filed against the petitioner herein who is arrayed as A-6 and other accused. After filing of the charge sheet, the Court below took cognizance of the offences and the case was numbered as C.C.No.738 of 2010.

4. A perusal of the complaint as well as the charges sheet would indicate that A-1 is the mother-in-law, A-2 is brother-in-law, A-3 is co-sister, A-4 is sister-in-law, A-5 is cousin brother and the

present petitioner is the relative of the second respondent herein. The marriage of the second respondent was solemnized on 26.03.2008 with the younger brother of A-1. At the time of marriage, her parents provided six tolas of gold and other household articles. After marriage when she joined the matrimonial home at Kandi village, she was shocked and astonished for the reason that A-1 to A-5 started abusing the second respondent stating that the marriage was not performed properly and adequate dowry was not given to them. The second respondent's husband as well as A-1 to A-4 started beating the second respondent while A-3, A-5 and the petitioner herein provoked the second respondent's husband. It is specifically stated that the petitioner herein is a close relative of the accused and working in the police department and has very strong influence in the family of the accused. Next day after the marriage i.e. on 27.03.2008, a reception was held at the residence of the accused. After all the accused went away, at about 11.30 p.m. the parents of the second respondent were called inside the room where A-1 and the petitioner were sitting. After the other accused came into the room, the petitioner herein told the other accused to speak by saying that "*lppudu matladanti yetla vinaro chusta*". Thereafter, the other accused started complaining with the parents of the second respondent that the marriage was not performed in a grand manner and the clothes and other items given are not up to their expectation. The petitioner warned that if the additional dowry demanded is not given, the second respondent will be thrown out of the house. The petitioner threatened the parents of the second respondent that if the

demand is not fulfilled, he would drag them to the police station and they will be booked under false cases. However, on the request of the parents of the second respondent 1½ year time was agreed upon for payment of additional dowry i.e. up to Deepavali festival of 2009. However, the accused insisted that on the first Deepavali festival of 2008, half tola of gold and wrist watch must be given to the husband of the second respondent. The second respondent also stated that she was treated as a servant in the house making her to wash all the clothes of the family members etc. In the month of May, 2008 the second respondent became pregnant. At that time A-1 to A-4 along with the husband of the second respondent, in the presence of A-6 abused the second respondent and her parents in filthy language and insisted that the pregnancy should be aborted and the second respondent should have children only after the balance four tolas of gold is given to them. On 31.12.2008, the second respondent delivered a baby girl. However, the accused instead of coming to Hyderabad, started abusing the father of the second respondent as the second respondent delivered a baby girl and not a male child and to keep the second respondent and the newly born baby girl with him. The husband of the second respondent died on 28.07.2009 because of ill-health.

5. As far as the present petitioner is concerned, the specific allegations made in the complaint and the same are as under:

“On 06.08.2009, the 10th day ceremony of the complainants’ husband, the complainant and her parents along with her maternal uncle were beaten by A-1 to A-4 on the instigation of A-6. The complainant along with her seven month old girl

child was thrown out of the house and was asked to get lost and never to show her face again. A-2 and A-6 while abusing the complainant started saying that the complainant has taken the life of her husband and after his death she has got no place in their house. The complainant and her parents fell on the feet of all the accused and pleaded them to show mercy upon her and her child. But, all pleadings went in vain falling on deaf ears. The accused No.6 threatened the complainant and her parents to get lost from there or else he would see that a false case is booked against the complainants' father and put him in jail. Having no other option the complainant left for Hyderabad.

The complainant submits that on 14.10.2009, the accused Nos.1, 2, 3, 4, 5 and 6 came to the house of the complainant's parents' house at Vijay Nagar Colony, Opposite to ITI Guild, with certain prepared documents on stamp papers and also blank stamp papers and tried to take the signature of the complainant forcefully, particularly the accused No.6 threatened the complainant with dire consequences if the complainant refused to put her signature on the said papers. When the complainant refused to sign the said papers and questioning the said accused No.6 about the contents of the documents, then all the accused started abusing the complainant and particularly the accused No.6 slapped the complainant. When the parents of the complainant tried to intervene, all the accused abused the parents of the complainant, and while leaving the house, the accused person much less the accused No.6 challenged stating that he will see that the complainant along with her parents will celebrate the Deepavali festival in jail and if the same is not done the said accused No.6 will resign the job of police constable."

6. The charge sheet filed also discloses that specific allegations are made against the petitioner herein and the same are similar to the allegations as stated supra.

7. The learned counsel for the petitioner submitted that the petitioner is a distant relative of the accused and he has nothing to do with the affairs of the family. The petitioner is not residing with the family of the accused and he is staying at a different place. He has been falsely implicated by the second respondent and there is no truth in the allegations made against him. The learned counsel

for the petitioner emphasized on the fact that since the petitioner is living at a different place, he cannot be roped in as an accused and the same would amount to abuse of process of the Court. To substantiate his contentions, he relied on a decision reported in *PREETI GUPTA AND ANOTHER v. STATE OF JHARKHAND AND ANOTHER*¹. In the said case, the first appellant was studying at Navasari, Surat (Gujarat) for the last more than 7 years and the second appellant who is unmarried brother-in-law of the complainant has also been permanently residing at Goregaon, Maharashtra. The only allegation made against them is that when the complainant/second respondent therein came to Ranchi on the occasion of Holi, all the accused came and passed sarcastic remarks which in absence of actual wordings, according to the learned counsel appearing for the petitioner could never be presumed to be an act constituting offence under Section 498-A IPC.

8. The learned counsel also relied on a decision reported in *PRITAM ASHOK SADAPHULE AND OTHERS v. STATE OF MAHARASHTRA AND ANOTHER*². The facts in the above said case disclose that after marriage the wife and husband were living in United Kingdom. The wife initiated proceedings in United Kingdom seeking permanent dissolution of matrimonial alliance with the husband. The Court in the United Kingdom in the first instance issued decree nisi on 09.05.2011. After that the husband who is the second respondent

¹ 2011 (1) ALD (Cri.) 297 (SC)

² (2015) 11 SCC 769

filed divorce petition against the wife under Section 13(1)(ia) of Hindu Marriage Act before a Family Court at New Delhi.

9. The facts in the above said two cases are not similar to the facts of the present case and as such, the same are not applicable to the facts and circumstances of the case.

10. A perusal of the charge sheet would clearly make out a prima facie case against the petitioner herein for offences punishable under Section 498-A IPC and Sections 4 and 6 of Dowry Prohibition Act. In the charge sheet the acts of omissions and commissions of the petitioner herein qua Section 498-A IPC as well as Sections 4 and 6 of D.P. Act are clearly mentioned as indicated above. In these circumstances, this court cannot accept the contention of the petitioner that no case is made out against him and contents of the proceedings would amount to abuse of process of the court.

11. In fact, in the recent past, the matrimonial litigation is rapidly increasing and it is a matter of common knowledge to every one that all the family members are being roped in irrespective of whether they have any role or not in the affairs between the wife and the husband. Thus, the tendency of implicating husband along with all his immediate relations is also not unknown. But, at the same time when specific allegations are made with reference to the dates as well as place of offence, this Court cannot brush aside the said allegations on the ground that the accused are either distant relatives or that they are falsely implicated. A perusal of the charge sheet in this case would indicate that the petitioner's role is

clearly mentioned and the same discloses a prima facie case against the petitioner. As such, this Court is not inclined to accept the contention of the petitioner and quash the proceedings initiated against him for the offences punishable under Section 498-A IPC and Sections 5 and 6 of Dowry Prohibition Act on the file of the XIII Addl.Chief Metropolitan Magistrate at Nampally, Hyderabad.

12. In the result, the criminal petition is dismissed.

The miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

Interim order, if any, passed by this Court shall stand vacated.

Date:17.04.2018
Ccm

P. KESHA VA RAO,J



HONOURABLE SRI JUSTICE P. KESHAVA RAO



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