

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.4728 of 2013

ORDER:

The criminal petition is filed seeking quash of the proceedings in CC.No.122 of 2012, against the petitioners, who are A1 to A4, on the file of the III Additional Judicial First Class Magistrate, Kothagudem, Khammam District. The offences alleged are under Sections 498-A of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.

2. Heard the counsel for the petitioners, the counsel for the second respondent and the learned Public Prosecutor appearing for the first respondent.

3. The complaint is filed alleging that the petitioners, who are the mother-in-law and sisters-in-law of the complainant harassed her making demand of additional dowry.

4. The counsel for the petitioners submits that the strangeness of this complaint lies in the fact that the husband of the complainant is not made accused. He also submits that A1 and one of her daughters filed a case in DVC.No.1 of 2012 under the Protection of Women from Domestic Violation Act against the *de facto* complainant, her son and two of her daughters and an interim order was obtained wherein the Court directed the respondents therein not to interfere with the peaceful possession and enjoyment of the property, which is the subject matter of DVC. Subsequently, the DVC was dismissed. The counsel for the petitioners contends that the present complaint is filed only in order to the property, which is in dispute between the parties.

5. This Court does not intend to express any opinion about the intention of the *de facto* complainant in filing this complaint, more so, because the statements recorded by the Investigating Officer including the statements of some of the sisters, petitioners 2 to 4 herein and the husband of the *de facto* complainant. In the said statements, they mentioned that the marriage between the *de facto* complainant and her husband is a love marriage and that these petitioners have been harassing her with demand for additional dowry. The daughters of A1 also categorically stated that the petitioners herein were harassing the *de facto* complainant with demand for additional dowry and that they also tried to neck her out from the house. Hence, when such are the allegations, it would not be safe to quash the proceedings without going into the merits of the case by way of trial.

6. For the aforesaid reasons, the decisions relied upon by the counsel for the petitioners cannot be taken as a basis to quash the proceedings.

In SMT. SUNITA GOYAL v. STATE OF PUNJAB¹ the High Court of Punjab and Haryana made general observations that there must be specific allegations/overt acts and *prima facie* material against the petitioners to indicate that the allegations are true. It also observed that all other relatives of the husband cannot, in all cases, be held to be involved in the demand of dowry, especially when in this case, the husband of the complainant is not an accused. It, further, observed that in cases, where such accusation is made, the overt acts attributed to persons, other than husband, are required to be

¹ 2012 SCC ONLINE P&H 3610

established. In this case, as already observed, since specific allegations are made, though no dates are mentioned, the statements of the sisters of the petitioners 2 to 4 add strength to the allegations made in the complaint.

In *SWAPNIL v. STATE OF MADHYA PRADESH*² the facts are that the husband filed petition for restitution of conjugal rights and later, withdrew the said petition. On facts, it was found that there was no question of beating by the appellant, as the respondent-wife and the appellant were not living together. The said facts are totally different from the facts of this case.

In *PREETI GUPTA v. STATE OF JHARKHAND*³ the Supreme Court held that there is a social responsibility and obligation to maintain social fibre of family life and allegations have to be scrutinized with great care and circumspection especially against husband's relatives who are living in different cities and never visited or rarely visited the matrimonial home.

7. As it is already observed that the allegations made in the complaint have a strong support of the sisters of the petitioners 2 to 4, this Court opines that it is not safe to quash the proceedings.

In the light of the above, the criminal petition is dismissed. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

T. RAJANI, J

December 28, 2018/DSK

² (2014) 13 SCC 567

³ (2010) 7 SCC 667