

THE HON'BLE SRI JUSTICE N.BALAYOGI

Criminal Petition No.2496 of 2011

ORDER :

This petition under Section 482 of Cr.P.C. is filed by petitioners/A1 to A3 seeking to quash the proceedings in C.C. No.444 of 2010 on the file of the II Additional Judicial First Class Magistrate, Machilipatnam, for the offence under Sections 417, 418, 420 read with Section 34 I.P.C.

2. The contention of petitioners is that the 1st respondent filed the complaint as counterblast to blackmail the 1st petitioner to withdraw the complaint filed by her. By filing of the complaint, the 1st respondent abused the process of law and it is vitiated by *mala fide* intention. There is no element of cheating or inducement to part with any property. The ailment said to have been disclosed by Doctor's Report can be curable one and it cannot come in the way of leading a happy matrimonial life. The medical report did not disclose that she is unfit to lead marital life. The complaint filed by the 1st respondent was referred as a mistake of fact. The 1st respondent filed protest petition and the Court below without applying its mind to the contents of the complaint, took cognizance of the case and ordered issuing of summons.

3. Now the point that arises for determination is :

“Whether there is prima facie case to prosecute petitioners”

4. A perusal of the record goes to suggest that the marriage between the 1st petitioner and the 1st respondent took place on 26.8.2007. The allegation of the 1st petitioner is that at the time of marriage her parents gave Rs.14,00,000/- to the 1st respondent and sister-in-law, apart from jewellery and household articles. The further allegation is that from the sixth month onwards after the marriage, her in-laws started pressurizing her to bring another Rs.10,00,000/- as additional dowry and all of them harassed her physically and mentally. On 22.2.2008, there was an attempt on the 1st petitioner by her parents-in-law, husband, sister-in-law and husband of the sister-in-law to kill her by dipping in the water.

5. The main allegation of the 1st respondent is that when his parents were searching for good alliance to perform his marriage, A2 and A3, parents of A1, induced them by saying that the 1st petitioner was hale and healthy and studied M.A. The further allegation in the complaint is that the 1st petitioner has been possessing congenital elongated cervix which is a prolonged tongue like substance hanging from her vagina having pus and bleeding. She was also examined by Dr.Sailaja on 3.9.2007, 23.11.2007, 5.2.2008 and on 18.3.2008 for giving treatment and she diagnosed it as “congenital elongation of cervix” and prescribed medicines. The further allegation is that parents of 1st petitioner and the 1st petitioner suppressed the said ailment and performed the marriage. Earlier also the 1st respondent lodged a complaint before the Chilakalapudi Police Station and as no action was

taken, he sent a report to the Superintendent of Police, Machilipatnam on 28.5.2008 making the same allegations. On 29.5.2008 the 1st petitioner also lodged a complaint before Inuguduru Police Station.

6. In view of the facts and circumstances discussed above, I am of the considered view that there is specific overt act attributed to petitioners about the suppression of material fact that the 1st petitioner has been suffering from congenital elongated cervix which is a prolonged tongue like substance hanging from her vagina having pus and bleeding and by suppressing the same, they performed the marriage, therefore, there is *prima facie* material showing the involvement of petitioners in the commission of offence.

7. With regard to delay in trial, the petitioners filed CrI.P.M.P. No.2574 of 2011 in the Criminal petition and obtained interim stay of all further proceedings in pursuant to the C.C. No.444 of 2010 on 29.3.2011. Besides that, the reason for delay is pending of so many cases on the file of the Court. However, it does not give any cause of action for petitioners to file a revision application.

8. In the facts and circumstances discussed above, I am of the considered view that there is *prima facie* material against petitioners and there is nothing to suggest that the de facto-complainant abused the process of law or any prejudice is caused to petitioners. The trial court has already taken the case on file and numbered it as C.C. No.444 of 2010.

9. Any observation made herein above shall not be taken as an expression of opinion on the merits of the case and the trial Court shall decide the matter uninfluenced by any observation made herein above.

10. In the result, the Criminal Petition is dismissed while vacating the interim stay granted by this Court in CrI.M.P. No.2574 of 2011, dated 29.3.2011.

11. Consequently, miscellaneous petitions pending, if any, shall stand closed.

01st February, 2018

skmr



JUSTICE N.BALAYOGI