

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition Nos.4891 and 5951 of 2011

COMMON ORDER:

A1 to A3 and A5 in CrI.P.No.4891 of 2011 and A4 in CrI.P.No.5951 of 2011 seek to quash the proceedings against them in Cr.No.13 of 2011 on the file of WPS, Kadapa registered for the offences under Sections 498A IPC and Sections 3 and 4 of Dowry Prohibition Act, 1961.

2a) The *defacto* complainant is the wife of A1; A2 and A3 are parents and A4 and A5 are sister and brother of A1.

b) The complaint allegations are that the complainant and her parents belonged to Kadapa and her father is an agriculturist and businessman; she studied MCA; her marriage with A1 was held on 17.08.2005 at Hyderabad; during marriage, on the demand of accused her parents gave Rs.5 lakhs as dowry and 2 lakhs worth golden ornaments; that apart, complainant's father agreed to register land admeasuring Ac.7.50 cts. situated at Appireddypally Village, Mudukur Mandal in the name of complainant and A1; within short time after marriage A2—the mother-in-law of complainant, asked the complainant to sell away the land and give the money as they do not want the land; when the complainant informed the said fact to her father, he expressed his inability to sell the land within short notice and the said answer was not to the liking of A1 and therefore, A1 and A2 insisted the complainant to sell away the land and bring money; since she failed to fulfill their demand, all the accused

started picking up quarrel with her and humiliated and manhandle her; they also harassed her mentally; they threatened that if her father does not give money as demanded, A1 would give divorce and marry another fair looking girl; they made an alternative proposal that if her father was unable to sell the land, atleast he should arrange Rs.20 lakhs to the accused to purchase a flat in Hyderabad; while the matters stood thus, in the first week of October, 2005 when her parents came to Hyderabad to see her, A1 bluntly told them that unless and until the amount was paid to them, they would not allow the complainant in their house and asked them to take her away and A1 necked her out of the house; in those conditions her parents took her to Kadapa and the gold ornaments which were presented to her at the time of marriage were held up with her in laws; mediators like A.Venkataiah of Siddavaram and A.Chandrasekhar of Tadipatri have tried to compromise, but A1 did not agree to take the complainant to matrimonial home; the accused have meted out all the harassments only due to non-payment of the amount by selling the land. It is further alleged that A1 had a second marriage with Varalakshmi and due to harassment of accused, she committed suicide and complainant came to know that a crime was booked against the accused by the police of Kukatpally PS.

3) Heard arguments of Sri R.Raghunandan Rao, learned counsel for petitioners in both the petitions; Sri A.Tulsi Raj Goud, learned counsel for respondent No.2/complainant in CrI.P.No.4891 of 2011 and learned Additional Public Prosecutor (AP) for respondent No.1 in both the petitions.

4) Denying the complaint allegations as false, learned counsel for petitioners argued that the complaint was motivated to bring down the petitioners to the dictates of the complainant. He submits that the within short time after marriage the complainant, who being the only pampered daughter of her parents, started behaving adamantly in the matrimonial home and she demanded A1 to set up a separate family and when A1 refused owing to the responsibilities towards his family members, the complainant threatened to commit suicide. On 10.10.2005 the complainant deserted A1 and left the matrimonial home without intimation to the accused. Therefore, A1 filed a complaint with Vanastalipuram PS and also gave complainant to Mahila Dakshata Samithi for counseling and mediation. However, the complainant did not attend and hence the conciliation could not be taken up. Having lost the hope of getting the complainant to matrimonial home, A1 filed divorce OP No.157 of 2008 on the file of Family Judge, Kadapa for divorce. The complainant in turn filed M.C.No.46 of 2008 for maintenance. The DOP No.157 of 2008 was allowed and marriage between A1 and complainant was dissolved whereas M.C.No.46 of 2008 was also allowed granting monthly maintenance of Rs.3,000/-. In maintenance case, the Court observed that petitioner failed to prove the harassment for the sake of money and she left the matrimonial home by calling her father and brother. The said observation, learned counsel points out, indicates A1 never harassed her for additional dowry as alleged. In divorce OP also the Court observed that the complainant left the matrimonial home with her father and brother in a planned manner. Learned counsel argued that

the divorce OP was allowed on 29.06.2009 and 1½ years thereafter, the complainant lodged the complaint belatedly to harass the accused with all false allegations. He further argued there are no specific allegations against individual accused. He thus prayed to allow the petitions.

5) Per contra, learned counsel for complainant while opposing the petitions argued that all the accused treated the complainant inhumanly, for, she failed to convince her parents to sell the land which was agreed to be registered in favour of A1 and complainant and pay the amount to the accused to purchase a flat at Hyderabad. Complainant never demanded for a separate house and as a matter of fact, A1 and his parents along with the complainant shifted residence from Vanastalipuram to Ameerpet to save transit time to A1's office at Punjagutta. Again they shifted to Vanastalipuram some time later. A1 never bestowed care, love and affection on complainant and he always harassed her to leave the house, so that he can marry again. Thus, it is false that complainant asked him to set up a separate family. Learned counsel further argued that accused made an alternative proposal that if her father was unable to sell the land and give money, atleast he should arrange Rs.20 lakhs to the accused to purchase a flat in Hyderabad. When they failed to meet the demand of the accused, A1 drove her away from the house. He submitted that the offence committed by the accused can be unearthed only after a thorough investigation and hence the petitions may be dismissed.

6) I gave anxious consideration to the complaint and other material placed on record. Admittedly, the marriage between A1 and complainant

was held on 17.08.2005. The parents of the complainant belonged to Kadapa whereas the accused are residents of Vanastalipuram in Hyderabad and within short time after marriage, disputes arose between the couple. Whereas the complainant alleges that A1 and the other accused, within short time after marriage, started demanding the complainant to prevail upon her father to sell the land and give the money and when they failed to do so they started harassing her, the counter allegation of the accused is that complainant being the only daughter to her parents was a pampered child and right from honeymoon days, she started pestering A1 to set up a separate family which he refused owing to his responsibility towards his family members and hence she developed grudge against him and his family members and went away along with her father and brother to her native place unminding the request made by A1.

7) In the wake of above allegations and counter allegations, when the material is carefully scrutinised, we will find some allegations against A1 and A2 which are grave in nature and hence require thorough investigation. The allegations are to the effect that within 15 days after marriage, A2 demanded complainant to inform her father to sell Ac.7.50 cts. of land agreed to be given to them and bring money and when her father expressed his inability to sell within such short notice, A2 prevailed upon A1 to intensify his demand and in that context, they started harassing her. We will also find an allegation as if other accused also harassed her on that ground. In my considered view, sofaras the other accused are concerned the allegation appears to be general and omnibus

one whereas the allegation against A1 and A2 is a specific one. Further, in October, 2005 when her parents came to see her, all the accused again made the demand and A1 necked out the complainant. We will also find an allegation that A1 had a second marriage with one Varalakshmi and she committed suicide due to his harassment and a crime was registered in Kukatpally PS. Therefore, the allegations against A1 and A2 are specific ones requiring investigation with circumspection to know whether the complaint is a truthful one or as a measure of retaliation against divorce obtained by A1 since the complaint was lodged admittedly 1½ years after the divorce decree. So far as other accused are concerned, the allegations are only general and omnibus in nature. Added to it, A4 is the married sister of A1 and her complicity in the alleged offence is highly improbable.

8) In the result:

- a) **Crl.P.No.4891 of 2011** is partly allowed and the proceedings in Cr.No.13 of 2011 are quashed against the petitioners/A3 and A5. However, the investigation shall go on against the petitioners/A1 and A2.
- b) **Crl.P.No.5951 of 2011** is allowed and the proceedings in Cr.No.13 of 2011 are quashed against the petitioner/A4.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date:12.10.2018
Murthy