

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

Civil Revision Petition No.4329 of 2017

Between:

Vadhiboyana Venkata Krishna Reddy

Rep. by GPA Holder Vadhiboyina Yandadhi Reddy

and 3 others.

... Petitioners/Defendants

AND

C.Venkata Ramama Reddy

and another.

... Respondents/Plaintiffs

DATE OF JUDGMENT PRONOUNCED: **24.01.2018**

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

1. Whether Reporters of Local Newspapers
may be allowed to see the judgments? Yes / No
2. Whether the copies of judgment may be
marked to Law Reporters / Journals? Yes / No
3. Whether Their Lordship wish to
see the fair copy of the Judgment? Yes / No

U. DURGA PRASAD RAO, J

*** THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO**

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... Respondents/Plaintiffs

! Counsel for Petitioners : Sri P.V.L.Bhanu Prakash

^ Counsel for Respondent : Sri Karri Murali Krishna

< Gist:

> Head Note:

? Cases referred:

1) AIR 1995 AP 130



HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO**C.R.P. No.4329 of 2017****ORDER:**

Challenge in this CRP at the instance of the petitioners/defendants is the order dated 27.06.2017 in I.A.No.606 of 2017 in O.S.No.110 of 2011 on the file of IV Additional District Judge, Kadapa, whereby the learned Judge dismissed the petition filed under Order VII Rule 11 r/w Sec.151 CPC by the defendants to reject the plaint as the suit was barred by law.

2) The respondents/plaintiffs filed O.S.No.110/2011 before the Principal District Judge, Kadapa, for a decree against defendants to repay Rs.29,60,600/- along with interest at 18% p.a. received by the defendants as consideration to marry plaintiff No.2 by defendant No.1 and also to direct defendants to return 35 Tolas of gold ornaments or their worth of Rs.9,27,500/- with interest.

3) The suit was made over to the Court of IV Additional District Judge-cum-Special Judge for Trial of Cases under SCs/STs (POA) Act, Kadapa. Pending the suit, the defendants filed I.A.No.606/2017 under Order VII Rule 11 r/w Sec.151 CPC to reject the plaint on the ground that the money decree sought by the plaintiffs is in respect of the dowry and gold ornaments allegedly presented by them in consideration of the marriage and as giving and taking dowry is an offence under Section 7 of the Dowry Prohibition Act, 1961, seeking recovery of the dowry amount and gold ornaments is not maintainable under Dowry Prohibition Act and

also under Section 23 of Indian Contract Act. The respondents/plaintiffs opposed the said petition. The IV Additional District Judge, Kadapa, in the impugned order dismissed the said petition relying upon the decision of this Court in *Smt. G.Renuka v. M.Papa Rao*¹.

Hence the instant CRP.

4) Heard arguments of Sri P.V.L.Bhanu Prakash, learned counsel for petitioners and Sri P.Veera Reddy, learned Senior Counsel for Sri Karri Murali Krishna, learned counsel for respondents.

5) It should be noted that after passing the impugned order in I.A.No.606/2017, the IV Additional District Judge, Kadapa, passed another order on 31.07.2017, whereby the plaint was returned under Order VII Rule 10 CPC for presentation before proper Court. It appears, now the suit is pending on the file of VI Additional District Court-cum-Family Court, Kadapa.

6) Apart from arguing that the impugned order is erroneous, learned counsel for petitioners also sought to argue that the filing of the suit at the inception before regular Civil Court instead of Family Court was itself erroneous and thereby the suit itself was not maintainable. He relied upon some decisions also on this aspect.

7) Per contra, learned senior counsel for respondents vehemently argued that what is germane in this CRP is the correctness of the

¹ AIR 1995 AP Pg.130

impugned order in I.A.No.606/2017 but not the issue as to whether the suit is maintainable before regular Civil Court or before Family Court.

8) On perusal of the impugned order and hearing both sides, this Court is of the considered view that the validity of the impugned order in I.A.No.606/2017 alone is relevant for discussion in this CRP as rightly argued by learned senior counsel for respondents. The IV Additional District Court, Kadapa, dismissed the petition in I.A.No.606/2017 relying on **Smt. G.Renuka's** case (1 supra), wherein this Court in view of Section 6 of Dowry Prohibition Act, 1961, held that plaint is maintainable to recover the amount of dowry. It was observed thus:

***“Para 13:** I may also point out that the Dowry Prohibition Act contemplates two stages. The first stage is taking or giving or abetting of giving or taking of dowry. The second stage is, after taking dowry and pending transfer of the same to the beneficiary, the person holds it in trust for the benefit of the woman. Though under the first stage, namely, taking or giving or abetting of giving or taking of dowry is punishable and therefore such act is a void transaction; under second stage i.e. after taking the dowry, the Legislature itself has provided that the person who took the dowry shall hold it in trust for the benefit of the woman pending transfer in her favour. Therefore, during the second stage, it is open to a woman to file a suit to recover the amount from the person who held the dowry in trust, if that person has not transferred the trust property in favour of the woman for her benefit. It follows from the above, that the suit by the plaintiff, in this case, is maintainable, as admittedly, the 2nd defendant, who admitted to have received the amount of dowry from the father of the plaintiff by way of a cheque on 19-4-1974, had not transferred it for the benefit of the plaintiff. The observations made by this Court in G. Ramasubbaiah v. G. Rajamma (1975 (1) APLJ 168) also categorically say that giving or*

receiving of dowry will come within the mischief of Sec. 3 of the Act, subject to the provisions of Sec. 6. Subject to the provisions of Section 6 mean that the person taking the dowry holds the property for the benefit of the woman as a trustee. It does not mean to say that during the said period, the woman cannot file a suit for recovery of the same. Section 6 of the Act enables the wife to file a suit for recovery of the dowry paid, if the person who received the dowry has failed to transfer the property for the benefit of the woman within the prescribed period.

Para 14: *It follows from the above, that the plaintiff is entitled to recover the amount of dowry and the suit is maintainable under Section 6 of the Dowry Prohibition Act, 1961.”*

Needless to emphasize that the ratio in the above decision squarely applies to the case on hand. The Trial Court rightly rejected the petition.

9) In the result, I find no merits in the CRP and the same is accordingly dismissed. No costs.

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

U. DURGA PRASAD RAO, J

Date: 24.01.2018

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