

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.4876 of 2018

ORDER :

The petitioners are A.2 to A.4 among four accused of C.C.No.201 of 2018 pending on the file of the Chief Metropolitan Magistrate, Vijayawada, out come of Crime No.195 of 2016, dated 25.05.2016, of A.S.Nagar Police Station, Vijayawada City, registered for the offence punishable under Section 498-A I.P.C., from the report of the 1st respondent-*de facto* complainant. The petitioners are seeking to quash the said calendar case proceedings.

2. The contentions in the grounds of quash petition are that as per the report of the *de facto* complainant in registration of the crime and from the final report, her marriage with A.1 performed at Tirumala Hills on 26.10.2013 arranged by elders and at the time of marriage given gold and jewellery towards dowry including 200 sq.yards of house site at Guntur. A.1 studied B.Tech. and working in HCL company at Hyderabad at the time of marriage and they set up their family at Lingampally, Hyderabad. Among A.2 to A.4, A.2 is brother-in-law, A.3 is mother-in-law and A.4 is sister-in-law of the *de facto* complainant, who used to visit frequently their house and humiliate her by using harsh words and subjecting her to cruelty both physically and mentally including for additional dowry. A.1 used to pressurize her to transfer the house site in his favour and on 14.05.2015, A.1 left to America on job purpose and even she contacted him over phone, he did not react and on 22.05.2016 on

coming to know of A.1 coming to India, she left to Madras Airport, however A.2 did not allow to talk to her husband and straight away took him to Tirupati, when she objected A.2 attacked her.

3. The contention of the learned counsel for the petitioners is that the said averment of the *de facto* complainant in the report and from perusal of the final report by investigation with reference to the statements of the *de facto* complainant (LW.1) and LWs.2 to 5, no other than the father, mother, paternal uncle and mother's brother-in-law of the *de facto* complainant are false and untrue in relation to the said allegations and it is a false accusation concocted including the allegation as to dowry and the allegations are very bald with no specific allegation, much less overt acts and she invoked the jurisdiction at Vijayawada with a deceptive attitude and the crime registered by influencing the police. The *de facto* complainant neither at Hyderabad nor at Madras Airport lodged any complaint for the alleged incidents and thereby sought for quashing of the calendar case proceedings.

4. Earlier, the petitioner filed Crl.P.No.6081 of 2017 and this Court on 22.08.2017 disposed of the same at the crime stage to follow the guidelines of the Apex Court in Rajesh Sharma and others v. State of U.P. and another. The police subsequently from the efforts failed, filed the final report in the form of charge sheet that was taken cognizance referred supra.

5. The learned Public Prosecutor opposed the same, so also learned counsel for the *de facto* complainant in saying there are prima facie allegations and there are no grounds to quash the proceedings.

6. Heard and perused the material on record.

7. As referred supra, from the statements reiterating what the First Information Report averments even taken on face value, there are bald allegations so far as A.3 and A.4, but for specific allegation against A.1-husband and A.2-brother-in-law of the *de facto* complainant.

8. Having regard to the above, when the specific allegation or overt acts so far as A.1 and A.2 and not others, the learned Magistrate without considering the same taken cognizance against A.1 to A.4, the quash petition can be allowed so far as A.3 and A.4 concerned, while dismissing for A.2.

9. Accordingly, the criminal petition is allowed in part, quashing the proceedings against petitioner Nos.2 and 3/A.3 and A.4 in C.C.No.201 of 2018 on the file of the Chief Metropolitan Magistrate, Vijayawada, while dismissing the quash petition against petitioner No.1/A.2. The bail bonds of the petitioner Nos.2 and 3/A.3 and A.4 shall stand cancelled.

10. Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

1st November 2018.
mar