

HONOURABLE SRI JUSTICE N. BALAYOGI

CRIMINAL PETITION No.7949 of 2011

ORDER:

This Criminal Petition is filed under section 482 of Cr.P.C., seeking to quash the proceedings in C.C.No.625 of 2009 in so far as petitioners / A.2 and A.3 are concerned pending on the file of XIII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad.

2. The contention of the petitioners is that, the respondent No.2 / complainant with an ulterior motive harassed and defamed them in the Society as they being the sister and brother-in-law of her husband, implicated in this case. The entire complaint do not reveal any specific instances of interference by the petitioners in matrimonial life of complainant and her husband, except vague allegations against them.

3. Per contra, the Counsel for respondent No.2 contended that on one occasion, her husband at the instigation of petitioners harassed the complainant. Similarly, learned Public Prosecutor contended that there are specific allegations against the petitioners and husband of complainant who harassed her to bring additional dowry or dispose of the land which was given by her parents in marriage.

4. Now, the point that arises for determination is:

“Whether there is any prima facie material to prosecute the petitioners?”

5. A perusal of the record go to suggest that respondent No.2 made a complaint on 04-1-2009 with Women Police Station, CCS, DD, Hyderabad.

6. In fact, marriage between respondent and her husband – Chevuru Srinivasulu was solemnized on 13-11-1993 at her native place Muthukuru. The entire complaint go to suggest that her husband harassed and abused the complainant in filthy language and beat her frequently. Thereafter, both were shifted to Hyderabad for their livelihood and started living in a rented house at S.R. Nagar, Hyderabad.

7. The allegations with regard to petitioners is that, on one occasion when complainant / respondent No.2 along with her husband went to Kalivela village, the elder sister and brother-in-law of her husband harassed her either to bring additional dowry or to dispose of the land given by her parents in marriage. Except this, there is no allegation either in the complaint or in the charge sheet filed after completion of the investigation, against the petitioners.

8. The learned Counsel for petitioners placed reliance of the judgement of the Apex Court, in the case of **GEETA MEHROTRA AND ANOTHER v. STATE OF UTTAR PRADESH AND ANOTHER**¹, wherein the Apex Court held as under:

¹ (2012) 10 Supreme Court Cases 741

“As the contents of FIR do not disclose specific allegations against the brother and sister of the complainant’s husband except casual reference of their names, it would not be just to direct them to go through protracted procedure by remanding for considerations of the matter all over again by the High Court and make the unmarried sister of the main accused and his elder brother to suffer the ordeal of a criminal case pending against them specially when the FIR does not disclose ingredients of offence.

9. In the case on hand, as already discussed above, in the charge sheet the only allegation is that on one occasion when the complainant went along with her husband to Kalivela village, the elder sister and brother-in-law of her husband who are petitioners herein / A.2 and A.3 instigated her husband to harass the complainant either to bring additional dowry or to dispose of the land given to her in marriage. Except this, there is no other allegation either in the complaint or in the charge sheet. The complaint or charge sheet do not make out prima facie case against the petitioners regarding allegation of instigating the husband of complainant to harass her either to bring additional dowry or to dispose of the land given by her parents in marriage. Except the said allegation, the complaint and charge sheet do not disclose any specific allegation against the petitioners in a causal reference of the names of petitioners that they instigated husband of the complainant to demand either to sell the property or to bring the additional dowry money. Merely making general allegation that they instigated the husband of the complainant to dispose of the property or to bring money without mentioning even a single incident against them is also a fact as to how the petitioners could be motivated

to demand to dispose of the property or to bring additional dowry money when they are only sister and brother-in-law of the complainant's husband, more particularly, the complainant-respondent No.2 and her husband are residing in Hyderabad whereas, the petitioners are residing at Kalivela village. It is alleged that only on one occasion, petitioners instigated, except this, there is nothing to suggest that the petitioners interfered into at any time in the matrimonial life of respondent No.2 and her husband. Hence, I find that the complainant-respondent No.2 by instigating the petitioners as accused abused the process of the Court and caused to suffer mental agony. Therefore, the proceedings in C.C.No.625 of 2009 in so far as petitioners / A.2 and A.3 are concerned on the file of XIII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad are quashed.

10. In the result, this Criminal Petition is allowed.

Miscellaneous Petitions, if any, pending in this Petition shall stand closed.

JUSTICE N. BALAYOGI

Dated:07-03-2018

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