

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.4253 OF 2011

ORDER:

In this petition filed under Section 482 of Code of Criminal Procedure (CrPC.) the petitioner/A.1 seeks to quash the proceedings against him in crime No.82 of 2011 on the file of the Women Police Station, Charminar, Hyderabad District.

The petitioner/A.1 is the husband of the second respondent/complainant. A.2 and A.4 are the brothers and A.3 is the sister of A.1. The second respondent lodged a complaint alleging that her marriage with the first petitioner/A.1 was solemnized on 09.04.2009 at Azampura, Hyderabad and at the time of marriage, her parents gave household articles, gold jewellery and cash of Rs.1,00,000/- to the accused. After marriage, they led marital life happily only for one month and thereafter, A.1 left for Oman. For about three months, he used to talk to her over phone, but later he stopped calling her. During her stay in in-laws' house, A.2 to A.4 harassed her mentally and made false allegations against her and due to such allegations, A.1 stopped talking to her and later her father-in-law has returned her belongings. It is further alleged that though her husband came down to Hyderabad, his family members did not disclose the same and secreted the information. Her complaint was registered as crime No.82 of 2011 and investigation is pending. Hence, the present petition.

Heard learned counsel for the petitioner and learned Additional Public Prosecutor.

Notice was served on the second respondent/complainant, but there is no representation.

Denying the complaint allegations, learned counsel for the petitioner would submit that even if the complaint allegations are accepted to be true, there is no iota of material in the complaint to sustain charge under Section

498-A of Indian Penal Code (IPC). Learned counsel would submit that except stating that her husband stopped talking to her over phone from Oman and after he returned to India, she was not informed of the fact that he returned to India from Oman, no other overt acts of harassment or cruelty are mentioned in the complaint against the petitioner/A.1. Learned counsel would further submit that A.2 to A.4 filed Criminal Petition No.3332 of 2011 to quash the proceedings against them and this Court having found that there were no plausible allegations against them, allowed the said criminal petition and quashed the proceedings against them. He would further submit that the petitioner/A.1 also stands on the same footing and therefore, the present petition may be allowed.

Learned Additional Public Prosecutor opposed the petition stating that there is ample material against the petitioner/A.1 to proceed with.

A perusal of the complaint allegations fortifies the submission of the learned counsel for the petitioner. In the complaint, so far as the petitioner/A.1 is concerned, it is mentioned that three months after the marriage, the petitioner/A.1 left for Oman and for a period of three months, he used to make calls to the complainant over phone and thereafter, he stopped talking to her over phone. It is further mentioned that after filing the complaint, the petitioner/A.1 came down to India, but the said fact was not informed to her intentionally. Except the aforesaid averments, no allegations touching upon the ingredients of an offence under Section 498-A IPC are made out against the petitioner/A.1. Therefore, no material could be found out from the complaint to sustain a charge under Section 498-A IPC.

A perusal of the order, dated 08.10.2013 in Criminal Petition No.3332 of 2011 would reveal that this Court allowed the said petition observing that except stating that A.2 to A.4 harassed her during her stay in her in-laws' house, the complainant did not state any specific overt acts of A.2 to A.4. It was further observed that a perusal of the Memorandum, dated 09.11.2010

revealed that the complainant and her father-in-law entered into a Memorandum of Understanding, wherein she admitted that she had no grievance or complaint against her father-in-law, his wife and other family members and that she was wilfully residing at her parents' house. Thus, it was clear that the complainant was not residing with her in-laws as on the date of the Memorandum and she had no grievance against any of the family members of the petitioner/A.1. The present complaint was filed subsequent to the said Memorandum alleging that during her stay in her in-laws' house, A.2 to A.4 harassed her. With the said observations, the said criminal petition was allowed and proceedings against A.2 to A.4 were quashed.

A perusal of the said order would reveal that the complainant, except making some passing remarks against the petitioner/A.1 and his family members, could not show any sort of harassment or cruelty allegedly meted out by them to her to bring home the offence under Section 498-A IPC. In my considered view, continuation of the F.I.R., and investigation would amount to abuse of process of the Court and therefore, the petitioner/A.1 deserves quashment of the proceedings.

In the result, the criminal petition is allowed and the proceedings in Crime No.82 of 2011 of the women Police Station, Charminar, Hyderabad District, are quashed.

Consequently, miscellaneous petitions pending, if any, shall stand closed. No costs.

U.DURGA PRASAD RAO, J

14.06.2018
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