

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.5824 OF 2015

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioners-A.1 to A.3 seeking to quash the proceedings against them in C.C. No.228 of 2015 on the file of the IV Additional Judicial Magistrate of First Class, Kakinada, East Godavari District, for the offences under Sections 498-A, 354 and 323 r/w 34 I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act.

2. Heard the learned counsel for the petitioners-A.1 to A.3, the learned Assistant Public Prosecutor for the 1st respondent-State and the learned counsel for the 3rd respondent-*de facto* complainant, apart from perusing the material on record.

3. Learned counsel for the petitioners-A.1 to A.3 would submit that the petitioners-A.1 to A.3 are innocent persons and falsely implicated in this case; the 3rd respondent-*de facto* complainant after first marriage, got married the petitioner-A.1; there is no dowry harassment as alleged by the *de facto* complainant; the *de facto* complainant is in the habit of filing false cases; similarly, she filed a false complaint against the earlier husband and the said case was ended in acquittal; the petitioners-A.1 to A.3 did not harass the *de facto* complainant after she begetting a baby girl, the same is invented for the purpose of this case; the petitioner-A.1 had booked the return ticket to the *de facto* complainant on 07.07.2012, in spite of that she did not join the petitioner-A.1; the *de facto* complainant came up with false allegations; and ultimately, prayed to allow the application.

4. Learned Assistant Public Prosecutor opposed the grant of relief sought for by the petitioners-A.1 to A.3 stating that there are no circumstances to consider their request.

5. Learned counsel for appearing for the 3rd respondent-*de facto* complainant would submit that earlier marriage of the *de facto* complainant was disclosed with the petitioner-A.1; after that only, the marriage of the *de facto* complainant with A.1 was performed; the *de facto* complainant having obtained divorce from the competent Court, performed the second marriage with the petitioner-A.1; lot of dowry has been given to the petitioner-A.1; thereafter, she was harassed by the petitioners demanding additional dowry; and there are no circumstances to allow the application.

6. In view of the contentions put forth by both sides, the point for determination is, whether the proceedings against the petitioners-A.1 to A.3 in C.C. No.228 of 2015 on the file of the IV Additional Judicial Magistrate of First Class, Kakinada, East Godavari District, can be quashed?

7. It is urged before this Court that the *de facto* complainant has not mentioned her first marriage either in the complaint or in the charge sheet. The point for determination is, whether the petitioners-A.1 to A.3 caused mental and physical torture to the *de facto* complainant and demanded additional dowry are relevant factors to take into consideration in this application. Further it is contended on behalf of the 3rd respondent-*de facto* complainant that having obtained divorce from a competent Court and informing the same to the petitioners, marriage of the *de facto* complainant was performed with the petitioner-A.1. Under these circumstances, even it is assuming for a while that the *de facto*

complainant did not disclose her first marriage to the petitioners-A.1 to A.3, it cannot be a ground to quash this application. It can be a ground to seek divorce by the parties to the litigation. There is record to show that the marriage of the *de facto* complainant with the petitioner-A.1 was performed on 08.04.2010 at Sri Tirupati Sri Venkateswara Swamy Devasthanam at Piridi village, Bobbili Mandal, Vizianagaram District as per the customs of their community. There are allegations of the petitioners-A.1 to A.3 demanding and taking Rs.15,00,000/-, Acs.2-00 cents of agricultural land, a house and plot, etc., for the marriage between the parties to the litigation. Thereafter, there is record to show that both the parties lived amicably for some time and few days thereafter, the *de facto* complainant was mentally and physically harassed by the petitioners-A.1 to A.3, when she begot a baby girl on 06.05.2011. The allegations are also that when the parents of the *de facto* complainant did not give additional dowry as demanded by the petitioners, she was tortured and harassed mentally and physically. There are allegations of harassment meted out at Hyderabad and also at different places. The specific allegation against the petitioner-A.1 in harassing the *de facto* complainant to sell the property given to her by her parents in the marriage and hand over the sale consideration to him. There are also allegations of suspecting the fidelity of the *de facto* complainant. The *de facto* complainant was also threatened. There was an effort by the elders to settle the dispute between the parties and it was not materialized. There are specific allegations against the petitioners-A.1 to A.3 that on 06.03.2015, they went to the parental house of the *de facto* complainant situated at Kakinada, demanded her to sign some documents to sell the property standing in her name. There are also so many other allegations against all the petitioners-A.1 to A.3 constituting the offences under Sections 498-A, 354 and 323 r/w 34 I.P.C. and Sections 3 and 4 of the

Dowry Prohibition Act. Mere non-disclosure of the first marriage cannot be a ground as contended. The allegations leveled against the petitioners-A.1 to A.3 are required to be determined in full fledged trial. There are no grounds to allow this petition.

8. Accordingly, the Criminal Petition is dismissed. Pending Miscellaneous Petitions, if any, shall stand closed.

20th February, 2018
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Dr. SHAMEEM AKTHER, J

