

HON'BLE SRI JUSTICE P.KESHAHA RAO
CRIMINAL REVISION CASE No.2068 of 2014

ORDER

Heard the learned counsel for the petitioner as well as the learned Public Prosecutor appearing for the respondent State.

2. The present Criminal Revision Case is filed by the petitioner – accused No.4, challenging the orders passed in CrI.M.P.No. 105 of 2013 in C.C.No. 271 of 2011, on the file of the Court of the Judicial Magistrate of First Class, Gooty, Ananthapur District, dismissing the petition.

3. The petition is filed under Section 239 Cr.P.C to discharge the petitioner for the offence under Section 498 A IPC read with Section 107 IPC and Section 3 and 4 of the Dowry Prohibition Act.

4. The facts in brief are that the *de facto* complainant lodged a complaint on 11.03.2010 against A.1 to A.4 - including the petitioner for the above said offences. Pursuant to the said complaint, Crime No. 23/2011 was registered. After investigation, charge sheet was filed. The learned Magistrate, after taking cognisance of the offences, numbered the case as C.C.No. 271 of 2011. During the pendency of the said case, the petitioner filed Criminal M.P. No. 105/2013 under Section 239 of Cr.P.C. to discharge the petitioner – Accused No.4 from the above said offences.

5. The respondent filed a counter and contested the same. After hearing, the learned Magistrate, by orders dated 08.08.2014, dismissed the said petition. Aggrieved by the same, the present Criminal Revision Case is filed.

6. The learned counsel appearing for the petitioner would contend that at the time of marriage of the complainant with the Accused No.1, the petitioner was 12 years old. No specific allegations are made against the petitioner, either in the charge sheet or in the statement of list of witnesses, except ominous allegations that the petitioner being sister of A.1, also demanded for additional dowry of Rs.3 lakhs. Therefore, the proceedings initiated against the petitioner cannot be maintained.

7. The learned public prosecutor appearing for the respondent state, fairly conceded that no specific allegations are made against the petitioner except a vague allegation that the petitioner also demanded for additional dowry.

8. Having heard both the counsel and from the perusal of the material on record, particularly, the charge sheet what all that is stated against the petitioner herein is that A-1 to A-4 demanded LW.1 to get additional dowry of Rs.3 lakhs for doing business and demanded LW1 to sign on diverse papers to enable the A.1 to marry another girl. In fact no specific dates, month or year have been mentioned. The said allegation is as vague as possible.

9. In the recent times, various complaints are being lodged for the offences under Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act, in which, whether any allegation is made out or not, all the family members are being roped in as accused only for the purpose of harassing the innocent family members whereby forcing them to

come to terms. In **RAJESH SHARMA AND OTHERS v STATE OF U.P. AND ANOTHER**¹ and another, the Apex Court held as under :

“Section 498A was inserted in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife particularly when such cruelty had potential to result in suicide or murder of a woman as mentioned in the Statement of Objects and Reasons of the Act 46 of 1983. The expression ‘cruelty’ in Section 498A covers conduct which may drive the women to commit suicide or cause grave injury (mental or physical) or danger to life or harassment with a view to coerce her to meet unlawful demand¹. It is a matter of serious concern that large number of cases continued to be filed Under Section 498A alleging harassment of married women. We have already referred to some of the statistics from the Crime Records Bureau. This Court had earlier noticed the fact that most of such complaints are filed in the heat of the moment over trivial issues. Many of such complaints are not bona fide. At the time of filing of the complaint, implications and consequences are not visualised. At times such complaints lead to uncalled for harassment not only to the Accused but also to the complainant. Uncalled for arrest may ruin the chances of settlement. This Court had earlier observed that a serious review of the provision was warranted². The matter also appears to have been considered by the Law Commission, the Malimath Committee, the Committee on Petitions in the Rajya Sabha, the Home Ministry, which have been referred to in the earlier part of the judgment. The abuse of the provision was also noted in the judgments of this Court referred to earlier. Some High Courts have issued directions to check such abuse”.

10. From the above, this Court is of the opinion that when no specific allegations are made against the petitioner who is the sister of A.1, the continuation of proceedings against her would amount to abuse of process of the Court, apart from putting the petitioner to undue hardship of facing the trial. As such, this court is inclined to interfere with the

¹ 2017 (2) G.L.H.818

order passed by the Court below in declaring the discharge of the petitioner.

11. Accordingly, the Criminal Revision Case is allowed by setting aside the orders passed in Criminal M.P. No. 105 of 2013 in C.C. No. 217 of 2011 dated 08.08.2014 on the file of the Court of Judicial Magistrate First Class, Gooti. Consequently, the petitioner is discharged for the offences under Section 498 A read with Section 107 IPC and Section 3 and 4 of the Dowry Prohibition Act.

The Miscellaneous Petitions pending, if any shall stand closed.

Dated: 14.09.2018

JR



P. KESHAVA RAO, J

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