

HON'BLE SRI JUSTICE P. KESHA VA RAO

CRIMINAL REVISION CASE No.1510 of 2018

ORDER:

Heard the learned counsel for the petitioners and the learned Public Prosecutor appearing for the first respondent-State.

Though notice is served on the second respondent as evident from the track consignment report on 25.06.2018, she has not chosen either to appear in person or by engaging any counsel.

The present criminal revision case is filed questioning the orders dated 20.04.2018 passed in CrI.M.P. No.1717 of 2017 in C.C.No. 750 of 2015 on the file of the Court of the IX Metropolitan Magistrate, Cyberabad at Kukatpally, dismissing the petition filed under Section 239 Cr.P.C. to discharge the petitioners for the offences under Section 498-A IPC and Sections 4 and 6 of the Dowry Prohibition Act.

The facts of the case are that the second respondent filed a private complaint against the petitioners and others for the offences under Section 498-A IPC and Sections 4 and 6 of the Dowry Prohibition Act, on the file of the IX Metropolitan Magistrate, Cyberabad at Kukatpally. The said complaint was referred to the police under Section 156(3) Cr.P.C. Consequently, a crime was registered vide FIR No.606 of 2014 for the above said offences. After completion of investigation, the charge sheet has been filed on 07.09.2015. The Court below, after taking cognizance of the above said offences against the accused, numbered the case as C.C.No.750 of 2015. Pending the said calendar case, the petitioners who are A-3 to A-5 filed CrI.M.P.No.1717 of 2017 under

Section 239 Cr.P.C. to discharge them for the offences charged against them. After hearing, the said petition was dismissed by orders dated 20.04.2018. Aggrieved by the same, the present criminal revision case is filed.

The learned counsel appearing for the petitioners would contend that there are no allegations against the petitioners either in the complaint, or in the charge sheet. Even in the statements recorded by the prosecution during the course of investigation, except LW-1, no other witness, made any allegations against the petitioners. As far as LW-1 is concerned, the allegations made therein is concerned, it is vague and without any specific reference, date or time. In those circumstances, the learned counsel submitted that the trial Court, has committed an error in dismissing the petition.

Per contra, the learned Public Prosecutor appearing for the first respondent has submitted that no specific allegations are made against the petitioners.

Having regard to the said submissions and also a perusal of the material on record, it is revealed that the petitioners have been charged for the offences under Section 498-A IPC and Sections 4 and 6 of the Dowry Prohibition Act. A perusal of the complaint filed before the IX Metropolitan Magistrate, Cyberabad at Kukatpally reveals that except a vague allegation that these petitioners instigated A-1 and A-2, to demand the money from the parents of the second respondent, there is no other allegation. Even in the charge sheet also, absolutely no specific allegations are made against the petitioners. From the statements of the witnesses except

LW-1, no other witness has stated anything against the petitioners. The learned counsel appearing for the petitioners while arguing, relied on a decision of this Court reported in *Y. SHAM KUMAR AND OTHERS v. STATE OF ANDHRA PRADESH AND ANOTHER*¹ and submitted that in similar circumstances when there are no specific allegations against the accused, the proceedings against them, were quashed. The relevant portion is as under:

"In PREETI GUPTA AND ANOTHER v STATE OF JHARHAND AND ANOTHER⁶ the Supreme Court held as follows:

"It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country including the Supreme Court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of society. It is a matter of common experience that most of these complaints under [Section 498-A](#) IPC are filed in the heat of the moment over trivial issues without proper deliberations. It is seen that a large number of such complaints are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious concern.

The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints.

---The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases."

The allegations of harassment by the husband's close relations who had been living in different cities and never visited or rarely visited

¹ 2013 (1) ALD (Cr1.) 652 (AP)

the place where the complainant wife resided would have an entirely different complexion. Such allegations of the complainant are required to be scrutinized with great care and circumspection."

It cannot be accepted that all the accused collectively represented that the first accused is an engineering graduate and is working as an Engineer. The fact which cannot be disputed is that the first accused has a diploma in Engineering. Ultimately, he secured a job in a cement factory at Yadiki as Junior Engineer. The second respondent herself stated in the complaint petition that after the first accused revealed these facts to her, she condoned his representation and started living with him and gave birth to a male child. Subsequently, the first accused secured employment in West Africa as an Engineer and worked there for some time. Therefore, what all can be understood from the facts of the case is that even if there is any representation made that the first accused is an Engineering graduate and was working as an engineer, it was by the first accused himself, but not by all the accused. Even if there is any demand for dowry, from the facts and circumstances of the case, it must have been from the first accused, but not from all the other accused who are the relatives of the first accused. It can be clearly understood from the nature of the allegations levelled in the complaint that A2 to A.12 have been implicated in this case only for the sole reason that they are related to the first accused. The Apex Court in Preethi Gupta (6th cited supra) observed that the allegations in the complaint have to be scrutinized with great care and circumspection especially when they are made against the husband's relatives. The Supreme Court also held that there is a need for serious re-look at the entire provision of [Section 498-A](#) IPC, and it made recommendation to the Parliament to revisit the said provision. In the instant case, the allegation that A2 to A.12 have been instigating A1 to harass her and that in connection with the birth of the male child, they visited the house of the second respondent and there, all the accused demanded dowry of Rs.2,00,000/- is quite un-convincing and appears to have been made purposely and designedly to involve A2 to A12 in the case filed by the second respondent/de facto complainant. If there is any harassment meted out by the first accused, the second respondent is not supposed to make all his

relatives accused in the complaint by alleging in general terms that they committed offences punishable under [Section 498-A](#) IPC and [Sections 3](#) and [4](#) of the Dowry Prohibition Act. Such a course shall not be encouraged. If A2 to A-12 are allowed to face trial basing on such sweeping and general allegations, in my view, it is nothing but abuse of process of law and ultimately it would result in miscarriage of justice causing undue hardship and agony to A2 to A12."

In these circumstances, this Court is of the opinion that no prima facie case is made out for the purpose of framing charges against the petitioners for the offences under Section 498-A and Sections 4 and 6 of the Dowry Prohibition Act.

Accordingly, the criminal revision case is allowed setting aside the orders dated 20.04.2018 passed in CrI.M.P. No.1717 of 2017 in C.C.No. 750 of 2015 on the file of the Court of the IX Metropolitan Magistrate, Cyberabad at Kukatpally and the petitioners 1 to 3/A-3 to A-5 are hereby discharged for the offences under Section 498-A IPC and Sections 4 and 6 of the Dowry Prohibition Act.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHA VA RAO, J

Date: 19.07.2018.
CCM

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