

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.17038 OF 2016

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. by the petitioners-A.2 to A.4 seeking to quash the proceedings against them in C.C. No.535 of 2015 on the file of the Additional Judicial Magistrate of First Class, Kovvur, S.P.S.R. Nellore district registered for the offences punishable under Sections 498A IPC and 3 & 4 of the Dowry Prohibition Act, 1961.

2. Heard both learned counsel senior counsel Sri K.G.Krishna Murthy, appearing for the petitioners, the learned Assistant Public Prosecutor appearing for the respondent-State and perused the record. Though notice is served on respondent No.2-defacto complainant, none appears and there is no representation on her behalf.

3. Learned senior counsel appearing for the petitioners-A.2 to A.4 would submit that there are no specific overt-acts against the petitioners; that the defacto complainant did not state when and where the alleged harassment was made; that it is only a dispute between husband and wife, and the defacto complainant-wife wants to live with her mother at Buchireddypalem village and demanded her husband(A.1) to live at her mother's house, and as the husband was not willing to do so, this case is foisted in order to mount pressure on her husband to settle the score; that there are no ingredients against the petitioners-A.2 to A.4 constituting the offences alleged against them; that even father-in-law of the defacto complainant sent money to meet her educational expenses; It is his further contention that the prosecution failed to see

that the petitioner-A.4, who is sister of A.1, usually resides in U.S.A. and so the allegation made against her that she demanded dowry from the defacto complainant, is utterly false; that the allegation that on 18.06.2012, the defacto complainant was pushed out of her house by family of A.1 is baseless; that petitioner-A.4 gave birth to a baby two months prior to that date and so there was no possibility of her involving in the alleged incident; that the other petitioners-A.2 & A.3 are not the beneficiaries; that the allegations of demand of additional dowry are invented for the purpose of this case, and that continuation of the impugned proceedings against the petitioners-A.2 to A.4 is nothing but abuse of process of Court, and ultimately, prayed to quash the impugned proceedings against petitioners-A.2 to A.4.

4. On the other hand, the learned Assistant Public Prosecutor opposed the grant of relief sought in the Criminal Petition.

5. In view of the contentions put forth by both sides, the point for determination is whether the proceedings in C.C. No.535 of 2015 on the file of the Additional Judicial Magistrate of First Class, Kovvur, S.P.S.R. Nellore can be quashed against the petitioners-A.2 to A.4 ?

6. Petitioners-A.2 and A.3 are parents-in-law of defacto complainant. Petitioner-A.4 is sister of A.1. As per the material placed before this Court, marriage between A.1 and the defacto complainant took place on 18.8.2011. At the time of marriage, petitioners-A.2 and A.3 took cash of Rs.2,00,000/- and 25 sovereigns of gold jewellery from father of defacto complainant. A.5 settled the marriage.

After the marriage, A.1 stayed only for a day with the defacto complainant and left to Bangalore on the plea of urgent work. Thereafter, the defacto complainant joined MRRI Engineering College, Udayagiri. A.1 and the petitioners herein did not take care of her. They did not even call her to their house during holidays. On 12.05.2014, mother of the defacto complainant took her to Bangalore, left her at the house of A.2 and came back. 10 days thereafter, A.1 and the petitioners-A.2 to A.4 started harassing her demanding landed property to lead matrimonial life with A.1.

7. The defacto complainant was man-handled by A.1 and the petitioners-A.2 to A.4. It is also alleged that the defacto complainant was put to starvation. It is alleged that petitioner-A.4 made clear that if the defacto complainant did not fulfill their demand, they would perform second marriage to A.1. There are also specific allegations against the petitioners-A.2 to A.4 that on 18.06.2012, the defacto complainant was necked out of the house in connection with the demand of additional dowry. There are also other specific allegations against these petitioners-A.2 to A.4. of causing mental and physical cruelty as well as demanding additional dowry.

8. Learned senior counsel appearing for petitioners relied on decisions in (a) *Bobbili Ramakrishna Raja Yadad & others v. State of A.P.*¹, and (b) *Suresh Kumar Jain v. State of A.P. & another*,², and contended that there are no specific allegations against the petitioners-A.2 to A.4 to continue the proceedings in C.C. No.535 of 2015 on the file

¹ (2016) 3 Supreme Court Cases 309

² 2013 (3) ALT (Cri.) 196

of the Additional Judicial Magistrate of First Class, Kovvur, S.P.S.R. Nellore against them.

9. In *Bobbili Ramakrishna Raja Yadad* case (1 supra), the Hon'ble Apex Court held thus:

“It is well settled that power under Section 482 C Cr.P.C. should be sparingly exercised in rare cases. As has been laid down by this Court in *Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre* {(1988) 1 SCC 692}, that when a prosecution at the initial stage was asked to be quashed, the test to be applied by the Court was as to whether the uncontroverted allegations as made in the complaint *prima facie* establish the offence. It was also for the Court to take into consideration any special feature which appears in a particular case to consider whether it was expedient and in the interest of justice to permit a prosecution to continue. This was so on the basis that the Court cannot be utilized for any oblique purpose and where in the opinion of the Court chances of an ultimate conviction are bleak and therefore, no useful purpose was likely to be served by allowing a criminal prosecution to continue, the Court may while taking into consideration the special facts of a case also quash the proceedings even though it may be at a preliminary stage.”

There is no dispute with regard to the above proposition of law laid down by the Hon'ble Apex Court.

10. In *Suresh Kumar Jain's* case (2 supra), this Court held thus:

“The word ‘cruelty’ as defined in the explanation to Section 498A of IPC, contains two clauses, viz. (a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand. The main thrust in clause (b) appears to be that the harassment of a woman should be with a view to coerce her or any person related to her to meet such demand....”

In the particular facts and circumstances of the said case, this Court held in the aforesaid decision that there is no averment in the charge sheet to show that the petitioner therein harassed the respondent therein.

11. As seen from the entire material placed on record, there are specific allegations against all the petitioners-A.2 to A.4 of demanding additional dowry from the defacto complainant and subjecting her to physical as well as mental cruelty. Truth or otherwise of the allegations levelled against these petitioners-A.2 to A.4 is required to be determined after due trial. Under these circumstances, it is not appropriate to quash the proceedings against them. The Criminal Petition is devoid of merit and is liable to be dismissed.

12. In the result, the Criminal Petition is dismissed. Miscellaneous Petitions pending, if any, in the Criminal Petition shall stand closed.

DR.SHAMEEM AKTHER, J

DATED: .2.2018
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