

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

[Special Original Jurisdiction]

WEDNESDAY THE TWENTY FIRST DAY OF MARCH
TWO THOUSAND AND EIGHTEEN

PRESENT

HONOURABLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL PETITION No. 9631 OF 2013

Between:

Banavath Gowri Bai & Ors. ... Petitioners/A4 to A6

V/s.

M. Nirmala Bai & Anr. ... Respondent/Complainant

Counsel for the petitioners : Sri P. Rana Praveer &
Sri P.Rana Kamalasan

Counsel for the Respondent : Sri Vishnu Teja for R-1
Public Prosecutor [AP] for R-2

The court made the following: [order follows]

HONOURABLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL PETITION No. 9631 OF 2013

ORDER :

This Criminal Petition, under Section 482 Cr.P.C., filed by the petitioners/A.4, A.5 and A.6 seeking to quash C.C.No.111 of 2013 on the file of the Judicial First Class Magistrate, Raidurg, Anantapur District, registered against them for the offences punishable under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act.

2. The brief facts of the case of the prosecution are that, the marriage of the 1st respondent/defacto-complainant was performed with A.1 on 27.11.2012 as per Christian religious customs and traditions at Nesepeeta Efrath Church, Raidurg Town, Anantapur District. After the marriage, A.1 and respondent No.1 came from Raidurg to Hyderabad. Thereafter, A.1 took a rented house at Yousufguda and used to reside there along with respondent No.1. After the marriage, there were differences arose

between A.1 and respondent No.1 and a counselling was conducted by the elders on 21.12.2012 and on the very next day, respondent No.1 left the house threatening that she will never come back again. A.1 waited for some period with a hope that she will return and on 27.12.2012 he wrote a letter to the father of respondent No.1 to counsel his daughter and settle the issue. It is the case of the petitioners that A.1 stayed with respondent No.1 hardly for a period of 22 days after the marriage and thereafter she deserted A.1 and left to her parents place without any reasonable cause. A.1 has been receiving threatening calls from respondent No.1 and, therefore, A.1 has filed a private complaint on 17.01.2013 against respondent No.1 and her father, which was registered as C.C.No.105 of 2013 on the file of XXIII Special Magistrate, Hyderabad, for the offences punishable under Sections 387 and 506 IPC. As a counter-blast, respondent No.1/defacto-complainant has filed a complaint on 29.05.2013 before the Station House Officer, Rayadurg Police Station, for the offences

punishable under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act against A.1 to A.6. The police after investigation filed charge sheet in C.C.No.111 of 2013 on the file of the Judicial First Class Magistrate, Raidurg, Anantapur District, against A.1 to A.6. Aggrieved by the same, A.4 to A.6 have preferred the present Criminal Petition.

3. Heard the arguments of learned counsel for the petitioners/A.4 to A.6 and the learned Public Prosecutor appearing on behalf of the 2nd respondent – State of Andhra Pradesh. Though notice has been served to the 1st respondent/defacto-complainant and one Sri T. Vishnu Teja, counsel entered appearance on her behalf, no arguments have been advanced on her behalf.

4. Learned counsel for the petitioners/A.4 to A.6 mainly contended that the 1st respondent/defacto-complainant has filed a false complaint against A.1 to A.6 for the offences punishable under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act. The ingredients of Section 498-A are not present in the instant

case either in the complaint or in the charge sheet filed against the petitioners/A.4 to A.6 and, therefore, they are entitled for quashing of the proceedings in C.C.No.111 of 2013. It is further submitted that the main allegation of the prosecution against the petitioners is that they demanded for dowry and thus, harassed the petitioners in different ways and there are no specific instances stated by the prosecution to allege the offences punishable under Section 498-A IPC.

5. On the other hand, the learned Public Prosecutor appearing for the 2nd respondent – submits that the ingredients of Section 498-A are very much present in the light of the averments made in the complaint lodged by the 1st respondent/defacto-complainant.

6. Before advertng to the rival contentions, it is appropriate to refer the provision under Section 498-A IPC, which reads as under :

“ 498-A - Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation.— For the purpose of this section, “cruelty” means —

(a) any wilful 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.”

7. As far as Section 498-A clause (a) is concerned, it has no application to this case. The case of the prosecution is that the offence under Section 498-A clause (b) is applicable to this case. A perusal of the complaint does not disclose that there are specific allegations against the petitioners/A.4 to A.6 with regard to the harassment made by them to meet any unlawful demand for any property or valuable security or on account of their failure of that demand, they have harassed her mentally and physically.

8. The learned Public Prosecutor submitted that the petitioner/A-4 has informed her brother/A-1 that A-1 wanted to have a car and if they buy a car he would be happy. Then the respondent No.1 informed her parents about the same. It is further submitted that the ingredient of Section 498-A of I.P.C. and section 3 and 4 of Dowry Prohibition Act are present in this case and the petitioners are not entitled for quashing of the proceedings.

9. A perusal of the complaint and Section 161 Cr.P.C. statement would disclose the main allegation is against A-1 that he has been harassing her physically and mentally by demanding additional dowry to buy a car and get the property registered in his name. The allegations against A-4, A-5 and A-6 are to the effect that the allegation against A-4 is that she informed the defacto complainant that her brother would be happy if they buy a car for him. The said allegation does not show that she had any intention to instigate any harm to her. The allegations against A-4 and A-5 are omnibus and general in nature. They are not

specific to any particular instance. In the light of the Hon'ble Supreme Court decisions submitted by the learned counsel for the petitioner in **GEETA MEHROTRA AND ANR. V/s. STATE OF UTTAR PRADESH AND ANR., in Criminal Appeal No. 1674 of 2012** [Arising out of **SLP {Crl.}** No. 10547/2010] { reportable } and **BOBBILI RAMA KRISHNA RAJU YADAV AND ORS. V/s. STATE OF ANDHRA PRADESH, REPRESENTED BY ITS PUBLIC PROSECUTOR, HIGH COURT OF A.P. HYDERABAD, A.P. AND ANR., in CRIMINAL APPEAL No. 45 OF 2016** [Arising out of **SLP. {Crl.}** No. 9344 of 2014] { reportable }, there must be specific allegation with regard to the physical and mental torture. A mere general allegation that they were also involved in physical and mental torture of the complainant without mentioning even a single incident against them would not implicate them in the commission of offence under section 498-A of I.P.C.

10. In the light of the above Hon'ble Supreme Court decisions and in view of the facts and circumstances of the case, the prosecution has not made out any case against A-4, A-5 and A-6 for the offences punishable under section 498-A of I.P.C., and section 3 and 4 of Dowry Prohibition Act. Therefore, the proceedings against the petitioners; A-4, A-5 and A-6 in C.C.No. 111 of 2013 on the file of the Court of Judicial Magistrate of First Class, Raidurg, Ananthapur district, are quashed.

11. In the result, this Criminal Petition is allowed.

12. As a sequel, miscellaneous petitions if any, pending in this Criminal Petition shall stand closed.

JUSTICE GUDISEVA SHYAM PRASAD.

HONOURABLE SRI JUSTICE GUDISEVA SHYAM PRASAD



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