

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.6911 of 2018

ORDER

This petition is filed under Section 482 Cr.P.C., to quash the proceedings in C.C.No.423 of 2017 pending on the file of I Additional Judicial First Class Magistrate, Narasapuram, registered for the offences punishable under Sections 498-A, 420 read with Section 34 IPC and under Sections 3 and 4 of Dowry Prohibition Act, 1961, against the petitioners/A1 to A8.

2. The petitioners are A1 to A8 and the second respondent is the de-facto complainant and wife of A1. The second respondent lodged a report before the police on 05.12.2016 making serious allegations against the accused and that the specific allegations made in the complaint (true copy of English translation) are extracted as under:

“My father after performing the marriage, my mother-in-law being their resident took to the Akiveedu village. Myself more happily went to the in-laws house. From the time of going to the marital home that the dowry is not sufficient used to talk hither-to words. That held by marriage with one week days, me, being my husband Lakshman Kumar that doing the job to Hyderabad for family purpose it happened that taken. After going to Hyderabad after some days on the behaviour of my husband, his original life (face) come out. Daily, he consuming the drugs on coming used to make me torture both physically, mentally. There relating to my situations no one is there to question my situation became horrible. Myself unable to bear those situations, within 10 months period of performing matrimonial life, it happened that came to parental house six times. My parents admonishing me used to live with my husband. Frequently suspecting me abusing me in filthy languages, cruising my character by talking making me to suffer mental agony instigated me to commit suicide. Frequently used to torture by telling that asking you father and bring another 5 lakh rupees as additional dowry.

Knowing the financial situations of my father the above dowry matter not told to my father since he will suffer.

Prior to our marriage Lakshman Kumar studied MBA. But he studied degree only. His date of birth is 03.03.1980 but by telling it as 12.04.1982 cheated.

He, me as wife at any time not looked lovely. Unable to bear the harassment told that he marriage me. Used to say that not got the marriage with liking. Used to look as servant maid in the house. Once myself when went to my paternal house to Hyderabad, in the house, broken hand bangles, condoms, brandy

bottle lids are there. When questioned what all these, by threatening that there was no need to tell, by closing mouth clean the house. If talk more will kill you and went out. Like this in dangerous situations, I am doing the life.

Though I studied MBA, my husband, his family members that telling to me that not do the job, that has live as servant maid in the house, otherwise threatened to die. He behaves more respectfully before the elders. Due to that his parents also against me, supporting the behaviour of my husband, told so many times if you like as told our son bringing the additional dowry bearing his behaviour perform the family, otherwise die.

In the year 2015, for Dussehra festival, my sister-in-law, her husband, my brother-in-laws (elder brothers of husband), their wives with their children came to our house at Hyderabad. At the time of coming to my sister-in-laws (sisters of husband), his brothers, told detailed about the behaviour of her husband. For that, all of them angrying on me, abusing me, taking into the room as they like, with legs, hands by beating, kicking my husband, sister-in-laws pressing me with pillow, attempted to kill. When become sound the street doors all they went out from the room. All this entire matter bring my elder brother-in-law i.e., being the elder brother of my husband when told to Suresh by phone, he also abusing indiscriminately by telling that behave as they told otherwise they will kill you and abused me”

3. The specific allegations made in the last two paragraphs of the complaint extracted above are that the husband and in-laws i.e., A1 to A3, of second respondent subjected her to cruelty for her failure to meet the illegal demands. With regard to the other accused, when they visited her house during Dussehra festival, the second respondent informed about the behaviour of her husband, then all of them beat her and attempted to kill her by pressing her body with pillow. On the basis of the complaint, the police registered the crime and investigated into. During investigation, the police recorded the statements of L.Ws.1 to 15 under Section 161 Cr.P.C., and after completion of investigation, they filed the charge sheet.

4. The present petition is filed on the ground that the allegations made in the charge sheet do not constitute the alleged offences, more particularly, against the petitioners 2 to 8/A2 to A8 and

requested to quash the proceedings as they are falsely implicated due to the alleged harassment meted by her in the hands of A1.

5. During hearing, learned counsel for petitioners reiterated the allegations made in the grounds urged and drawn the attention of this Court to various paragraphs of the complaint written in Telugu dated 05.12.2016 lodged by the second respondent with the police and also the statements recorded by the police under Section 161 Cr.P.C., during investigation. But the said statements are not placed on record though they are part of the charge sheet. Therefore, in the absence of those statements, it is difficult for this Court to decide whether there is any specific allegation against the petitioners to attract the offences alleged. Even assuming for a moment that the allegations made in the complaint, which are extracted above, are proved, still there is material against the petitioners to constitute the various offences. Therefore, at this stage, it is difficult to quash the proceedings as the allegations made in the charge sheet would constitute the alleged offences. Therefore, I am not inclined to quash the proceedings since the powers of this Court are limited as Section 482 of Cr.P.C., conferred power on this Court only to give effect to the orders passed by the Court and to prevent abuse of process of the Court or to meet the ends of justice. The Apex Court in **State of Haryana v. Bhajanlal**¹, laid down the following 7 guidelines;

(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and

¹ 1992 Supp(1) SCC 335

accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under [Section 156\(1\)](#) of the Code except under an order of a Magistrate within the purview of [Section 155\(2\)](#) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under [Section 155\(2\)](#) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of [the Code](#) or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in [the Code](#) or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

Similarly, in **Mrs. Dhanalakshmi v. R. Prasanna Kumar and others**², the Apex Court dealt with the scope of Section 482 of Cr.P.C and it reads as under:

“Section 482 of the Code of Criminal Procedure empowers the High Court to exercise its inherent powers to prevent abuse of the process of Court. In proceedings instituted on complaint exercise of the inherent power to quash the proceedings is called for only in cases where the complaint does not disclose any offence or is frivolous, vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance is taken by the Magistrate it is open to the High Court to quash the same in exercise of the inherent powers under Section 482. It is not, however, necessary that there should be a meticulous analysis of the case, before the trial to find out whether the case would end in conviction or not. The complaint has to be read as a whole. If it appears on a consideration of the allegations, in the light of the statement on oath of the complainant that ingredients of the offence/offences are disclosed, and there is no material to

² AIR 1990 SC 494

show that the complaint is mala fide, frivolous or vexatious. in that event there would be no justification for interference by the High Court.

In view of the above judgments, while deciding a petition under Section 482 of Cr.P.C., this Court cannot conduct a detailed examination to find out the truth in the allegations made in the charge sheet and cannot appreciate the evidence. But the Court can evaluate the material on record to come to independent conclusion and therefore, at this stage, this Court cannot appreciate the facts of the case in detail.

6. When the allegations in the charge sheet coupled with the statements recorded under Section 161 of Cr.P.C., would constitute the offences alleged, the Court can decline to exercise such power under Section 482 of Cr.P.C. Thus, the allegations made in the charge sheet would suffice, *prima facie*, clear that the petitioners have committed the offences alleged. Therefore, this Court cannot exercise power under Section 482 of Cr.P.C., to quash the proceedings.

7. At this stage, learned counsel for petitioners requested this Court to dispense with the appearance of petitioners 2 to 8/A2 to A8 before the Magistrate in connection with C.C.No.423 of 2017 on the file of I Additional Judicial First Class Magistrate, Narasapuram. But, this Court, while exercising power under Section 482 Cr.P.C., cannot pass an order under Section 205 of Cr.P.C. However, the petitioners are at liberty to file appropriate application under Section 205 of Cr.P.C. or under Rule 37 of Criminal Rules of Practice, after service

of notice on the respondents. In the event of filing such application, the Magistrate is required to consider the material filed along with the said application and pass appropriate orders in accordance with law, within a week from the date of receipt of such application.

8. With the above direction, the Criminal Petition is disposed of. Miscellaneous petitions, if any, pending in this petition shall stand closed.

M. SATYANARAYANA MURTHY, J

5th July, 2018

sj

