

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.9951 OF 2015

ORDER:

This criminal petition is filed under Section 482 of Criminal Procedure Code to quash the proceedings in C.C.No.354 of 2015 on the file of I Additional Judicial First Class Magistrate, Warangal District, for the offences punishable under Sections 498-A, 313, 406, 506 IPC & Sections 3 & 4 of Dowry Prohibition Act, 1961.

The petitioner/A-5 is the wife of one T.S. Murali Mohan, sister-in-law of the second respondent/defacto complainant. The second respondent/defacto complainant lodged a report with the police making serious allegations against all accused, including this petitioner/accused and on the strength of the same, Crime No.46 of 2012 was registered and F.I.R was issued for the offences punishable under Sections 498-A, 313, 406, 506 IPC & Sections 3 & 4 of Dowry Prohibition Act, 1961.

During investigation, the police examined as many as nine witnesses and recorded their statements under Section 161(3) Cr.P.C and on collection of other evidence, that investigating agency concluded that there is *prima facie* material to proceed against the petitioner and filed a final report before the Magistrate. Thereupon, the Magistrate took cognizance against all the persons, including this petitioner, who is arrayed as Accused No.5 and issued process. At this stage, the petitioner herein/A-5 approached this Court to quash the proceedings on the sole ground that there is absolutely no allegation to constitute any of the offences and prayed to quash the proceedings.

During hearing, Sri T. Nagarjuna Reddy, learned counsel for the petitioner would draw attention of this Court to the allegation made in the second paragraph of the complaint filed before the Magistrate and so also the statement of nine witnesses recorded under Section 161(3) Cr.P.C. Out of the nine witnesses, statements of five witnesses which have been recorded by the police do not disclose commission of offence and requested to quash the proceedings.

Sri Ashok Raj, learned counsel for the second respondent/defacto complainant opposed the petition on the ground that the allegations made in the complaint and charge-sheet are sufficient to constitute an offence punishable under Sections 498-A, 313, 406, 506 IPC & Sections 3 & 4 of Dowry Prohibition Act, 1961, against the petitioner and prayed for dismissal of the petition.

The basis for registration of the crime is the written report lodged with the Additional Director General of Police, C.I.D, Hyderabad on 08.06.2012. The specific allegation made against the petitioner/accused No.5 is that, the proposal of marriage was brought by her relative Mr. Rama Murthy, Ex-Professor, NIT, Warangal and Mrs. Bharathi w/o Mr. Nagaraja Kumar. They presented this marriage proposal and concealed the actual facts, bad habits of the boy and important information like smoking, drinking alcohol etc., and about his irritable behaviour and cheated the defacto complainant and her parents intentionally. But, no specific allegation against A-5 is made, except referring the name of the petitioner and at the end of the complaint, it is alleged that A-1 called her and her father and threatened to kidnap the

child and kill the defacto complainant at any time, as his brother is highly influential in India.

On the allegations made in the written report lodged with the police, the police registered a crime against all the accused, including the petitioner herein/A-5 and investigated into the crime. In the entire statements recorded under Section 161(3) Cr.P.C, there is absolutely no allegation that this petitioner subjected the defacto complainant to cruelty in any manner in connection with dowry to constitute offences punishable under Sections 498-A, 313, 406, 506 IPC & Sections 3 & 4 of Dowry Prohibition Act, 1961.

The allegation made against this petitioner by L.W-1, is as follows:



Based on this sentence in the statement of L.W.1, the petitioner is also arrayed as an accused. But, even if this allegation is accepted as true, on its face value, that would not constitute an offence punishable under Sections 498-A, 313, 406, 506 IPC & Sections 3 & 4 of Dowry Prohibition Act, 1961.

Section 406 of I.P.C. deals with the punishment for criminal breach of trust. The ingredients to constitute a criminal breach of trust are: (i) entrusting a person with property or with any dominion over property (ii) that person entrusted (a) dishonestly misappropriating or converting that property to his

own use; or (b) dishonestly using or disposing of that property or willfully suffering any other person so to do in violation (i) of any direction of law prescribing the mode in which such trust is to be discharged, (ii) of any legal contract made, touching the discharge of such trust.

In the absence of any allegation that there is criminal breach of trust, as defined under Section 403 IPC, it is difficult to hold that the petitioner committed an offence *prima facie*, since no such allegation is made against this petitioner.

The other offence allegedly committed by the petitioner, is under Section 506 IPC. Section 503 IPC defined 'criminal intimidation' as, whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threats, commits criminal intimidation. Whereas, the punishment for criminal intimidation is prescribed under Section 506 IPC as, whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both and, if threat be to cause death or grievous hurt, etc.-
- and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which, may extend to seven years, or to

impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

But, here, in this case, as per the statement recorded by the police under Section 161(3) Cr.P.C, L.W.1, the petitioner threatened the defacto complainant that she is incapable of doing anything and asked her to go to U.S. and lead marital life. But, such threatening would not fall within the definition of 'criminal intimidation' as defined under Section 503 IPC. Making a bald allegation in the complaint and the statements recorded by the police under Section 161(3) Cr.P.C is not sufficient to rope any of the family members to crime.

In **Preeti Gupta v. State of Jharkhand**¹, the Supreme Court itself had struck a note of caution with reference to complaints regarding offence under Section 498A IPC as increasingly false complaints were given to settle scores among family members and that such complaints should be taken only on clear verification of facts and held as follows:

“30.It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country including this Court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of the society.

33. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with

¹ (2010) 7 SCC 667

these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful.”

In view of the law declared by the Apex Court in the above judgment, I find that it is a fit case to quash the proceedings against the petitioner/A-5 in C.C.No.354 of 2015 on the file of I Additional Judicial First Class Magistrate, Warangal District, for the offences punishable under Sections 498-A, 313, 406, 506 IPC & Sections 3 & 4 of Dowry Prohibition Act, 1961, since the allegations made in the complaint do not constitute any offence *prima facie*.

In the result, the criminal petition is allowed, quashing the proceedings against the petitioner/A-5 in C.C.No.354 of 2015 on the file of I Additional Judicial First Class Magistrate, Warangal District.

Consequently, miscellaneous petitions pending, if any, shall also stand closed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:18.07.2018

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