

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.8546 of 2018

ORDER:

The petitioner is accused No.4 no other married sister of A.1, husband of the defacto complainant-2nd respondent. She is seeking to quash the proceedings in CC.No.527 of 2016 on the file of XIII Additional Chief Metropolitan Magistrate, Hyderabad, taken cognizance by the learned Magistrate from the police final report in crime No.607 of 2015 of WPS, CCS, Hyderabad, registered for the offences punishable under Sections 498-A, 406 & 506 IPC and Sections 4 & 6 of Dowry Prohibition Act.

2. The sum and substance in the contentions of the quash petition of the petitioner/A4 are that there is no whisper in the FIR including from the investigation statements of LWs.2 to 13 against her, but for in the so called additional statement of the defacto complainant purposefully and falsely making allegations vaguely and evasively to implicate her. From which the police during investigation implicated though she was not accused in the FIR, registered only against 3 accused viz., husband and in laws.

3. Learned counsel for the defacto complainant submits that the Court has to consider in the quash petition prima facie accusation or not and from the police final report in the investigation for the FIR need not be an encyclopedia, specific allegations in detail are there in the statement, there is

nothing to quash the said cognizance order rightly taken by the learned Magistrate after application of mind, but for if at all remedy left open to face trial to file application to discharge.

4. Learned Public Prosecutor representing the 1st respondent-State also supported the said submission of the defacto complainant supra.

5. Undisputedly the marriage of A.4 was performed in the year 2007 and her husband is an employee at abroad (America) and she joined her husband and lived there for sometime and came back to India and staying with her parents. It is one of the submissions that in the recent past when she wanted to live with her husband it came to know from the police final report taken cognizance of the case pending against from which she moved the application in seeking to quash. The marriage of the defacto complainant with A.1 was performed in December 2010. So far as the allegations made in the additional statement of the defacto complainant dated 22.02.2016 in crime No.607 2015 dated 03.10.2015 are that since date of marriage besides the in-laws i.e., A.2 and A.3 apart from her husband A.1, her sister in law A4 Smt. Kalam Rani Rudrama were all physically and mentally harassing. Earlier A.4 and her husband were staying in KPHB Colony and her husband is brother by courtesy to her. A.2 was an egoist even educated without samskar or discipline and under the pretence of not giving

respect she was ill-treating like anything even she was putting up to her onslaughts. It is further mentioned that for the marriage of A.4 amounts borrowed including by mortgage of the property with Vijaya Bank and even the amounts are not liquidating and to liquidate those mortgage debts pressure is giving on the defacto complainant by her husband and other accused supra and at the instigation of other accused, A.1 was harassing and even he was taking away all her salaries and amounts. All the accused were beating and ill-treating and they were instigating A.1 against her to ill-treat her. With a pretence to purchase house at Narsapuram, all the accused demanded Rs.3,00,000/- to bring from her parents. Their harassment not even changed even defacto complainant and A.1 blessed with a female child in their wedlock. A.4 demanded to purchase gold jewellery to her and her husband sent Rs.22,000/- for that and still A.4 was harassing her of there were no proper providing of the lanchanams etc., even went to the extent of attributing illicit relationship between the defacto complainant and husband of A.4 by A.4 and to meet the additional demand for dowry which she could not repeatedly. A.1 left defacto complainant and went to the house of A.4 and therefrom not even responding to her phone calls by him and there was no change in the attitude and harassing to meet the additional dowry even thereafter. A.4 was instigating A.1 to get rid off the defacto complainant. A.1 without knowledge of the

defacto complainant applied for passport and also applied for loan of Rs.10,00,000/- and A.4 was interfering with the day to day life of the defacto complainant one way or the other thereby in harassing.

6. So far the FIR allegations concerned, the main allegations are only against A.1 besides his parents A.2 and A.3 and there is no even little whisper against A.4. The statements of the other witnesses including the parents of the defacto complainant no way whispered anything specifically for any instances against A.4. A perusal of the record thereby shows the allegations were brought into being specifically with some spite or ill-will. Though FIR need not be an encyclopedia had there been any truth in the allegations covered by the said additional Section 161 Cr.P.C. statements of the defacto complainant against A.4 there could be at least a whisper with basis in the FIR and there is no even little whisper in the FIR and it is not even statement that subsequent to the registration of the crime A.4 started harassing the defacto complainant to show the same.

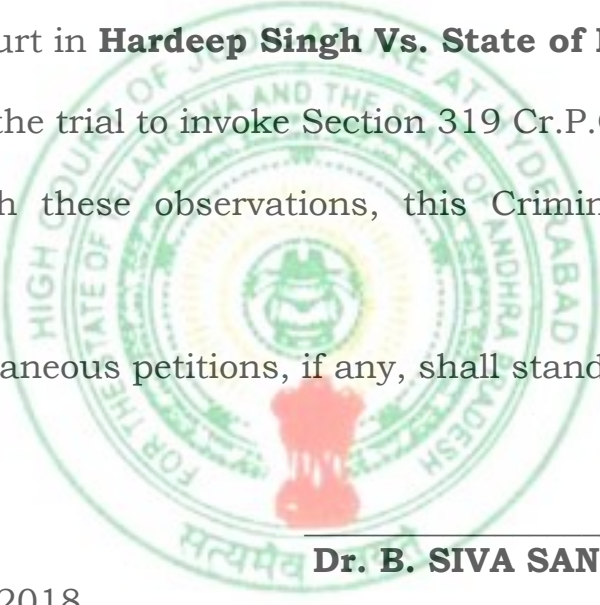
7. Having regard to the above, the power of this Court is not like the trial Court framing charges but to exercise as conferred though with limitation self imposed in the exercise of the inherent power to sub serve the ends of justice or to prevent the abuse of process and the allegations clearly indicates that rather than pursuing the prosecution allegedly the allegations are made specifically so far as the petitioner

concerned to rope, leave about if at all there is any little truth initially and not restrained to exercise to make an allegation in the FIR that is not be all and end all but for what is observed supra.

8. Having regard to the above, to prevent the abuse of process and to sub serve the ends of justice, it is fit case to quash the cognizance order supra against the petitioner, which is without prejudice if at all during trial there is any specific material as required from the Constitution Bench of the Apex Court in **Hardeep Singh Vs. State of Punjab**¹, there is no bar to the trial to invoke Section 319 Cr.P.C.

9. With these observations, this Criminal Petition is allowed.

Miscellaneous petitions, if any, shall stand closed.



Dr. B. SIVA SANKARA RAO, J

Date: 19.12.2018
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¹ AIR 2014 SC 1400