

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.2719 of 2011

ORDER:

In this petition filed under Section 482 Cr.P.C, petitioners/A1 to A6 seek to quash the proceedings against them in C.C No. 67 of 2011 of on the file of IV Additional Munsif Magistrate, Chittoor, wherein cognizance was taken for the offences under Section 498-A IPC and Sections 3 & 4 of Dowry Prohibition Act, 1961.

2. The complainant is the wife of first petitioner. Petitioner No.2 is the widowed mother, petitioners 3, 4, and 5 are the married sisters and petitioner No. 6 is the younger brother of first petitioner.

3. The brief allegations of the complaint are that the marriage between the de-facto complainant and the first petitioner took place on 24.1.2007 and for about three months they lived happily. Later her mother-in-law, sisters-in-law and brother-in-law along with her husband started harassing her physically and mentally and insisted her to get additional dowry from her parents. When she pleaded the inability of her parents to pay huge amount once again as they have already paid Rs. 50,000/- as dowry and spent Rs. 2,00,000/- towards marriage expenses, they beat her and drove her away from the house on 13.4.2007. At the intervention of the elders, mediation took place where the first petitioner demanded cash of Rs. 2,00,000/- and with much difficulty the father of the complainant borrowed Rs. 2,00,000/- from one A. Gunasekar Reddy of Putnalapattu and gave the same to the first petitioner as additional dowry. Thereafter, they

lived for one month happily. Again the husband of the defacto complainant/first petitioner asked her to bring amount on the pretext that he got road contract work and he has to bear some extent. When she pleaded her inability, all the accused harassed her and driven her out of the house. Again, her parents borrowed Rs. 50,000/- from one G. Sambasiva Reddy and gave the same to the first petitioner and he spent that amount for his vices. Finally the accused drove her away from the house on 17.2.2008.

4. The police after investigation filed charge sheet against the accused for the offences under Section 498-A and Sections 3 & 4 of Dowry Prohibition Act, 1961. Hence, the instant petition.

5. Denying the allegations in the charge sheet, learned counsel for petitioners would submit that the first petitioner took the responsibility of the family and performed marriages of all his three sisters and educated his younger brother and after he discharged all his responsibilities, he got his marriage at a late age of 40 years. Neither the first petitioner nor the other petitioners demanded any dowry or additional dowry as pleaded. When the de-facto complainant left the society of the first petitioner, he filed O.P No. 62 of 2008 on the file of Principal Senior Civil Judge, Chittoor. Though the complainant appeared in that matter, she remained ex-parte, so the O.P was decreed in favour of the first petitioner. When the de-facto complainant did not join his society, the first petitioner was constrained to file O.P.No. 64 of 2010 on 3.7.2010, seeking divorce. Having received the summons the de-facto complainant gave a report to the police as a counter blast to the divorce O.P with all false allegations. Learned counsel would

submit that the first petitioner is now suffering with paralysis and on all these submissions, he prayed to allow the petition.

6. Per contra, learned counsel for first respondent/de-facto complainant would submit that the charge sheet as well as 161 Cr.P.C statements would clearly depict the physical and mental harassment caused by the accused to the de-facto complainant. They would also disclose as to how they harassed her for additional dowry on several occasions and drove her away from the house and argued that the petition is not maintainable.

7. Learned Assistant Public Prosecutor also argued in similar lines as that of first respondent/de-facto complainant.

8. As can be seen from the record, there is *prima facie* material against the first petitioner, who is the husband of the de-facto complainant. Therefore, he does not deserve the quashment of the proceedings. However, so far as the other petitioners are concerned, a perusal of the record does not any inference to direct them to undergo trial. The complaint was given on 8.8.2010 alleging that there was harassment since three months after marriage. Absolutely there was no material to support the version of the de-facto complainant so far as accused Nos. 2 to 6 are concerned. Admittedly petitioners 2 to 6 are residing separately from the first petitioner and the complainant. Petitioners 3, 4 and 5 are concerned, they are married sisters of the first petitioner and they are living separately. Petitioner No. 3 was married in the year 1999 and she is staying with her husband at Hyderabad. 4th petitioner is also a married in the year 2005 and she has been living with her husband at Chennai. 5th petitioner is

concerned, her marriage was performed in the year 2002 and she is staying with her husband at Chittoor. Therefore, the marriages of the petitioners 3 to 5 were performed long prior to the marriage of the first petitioner and the de-facto complainant and they have been residing separately. Therefore, it is preposterous to argue that all the accused including petitioners 3 to 5 harassed her for additional dowry and they necked her out from matrimonial house twice. So far as 6th petitioner is concerned, he is the younger brother of the first petitioner and he was unmarried at the time of the marriage of the first petitioner. However, the submission of learned counsel for petitioner is that against the wish of the first petitioner, the 6th petitioner married a girl and he has been residing separately along with his mother. Along with the material papers, a photo copy of the ration card (household card) issued by the authorities is filed, which shows that the said ration card was issued in the name of the 6th petitioner and his mother/second petitioner. The card was issued on 14.8.2006 indicating that even prior to the marriage of the first petitioner, the second and 6th petitioners have been separately residing.

9. Therefore, I find force in the submission of learned counsel for petitioners that in the complaint, petitioners 3 to 6 were roped in as counter blast to the divorce O.P filed by the first petitioner. Therefore, continuation of criminal proceedings against petitioners 2 to 6, in my considered view, would amount to abuse of process of the Court.

10. In the result, the Criminal Petition is partly allowed and the proceedings against petitioners 2 to 6/A2 to A6 in CC No. 67 of 2011 on

the file of IV Additional Munsif Magistrate, Chittoor, are quashed.

However, proceedings shall continue against first petitioner/A1.

As a sequel there to, miscellaneous applications, pending if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 02.07.2018

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