

HONOURABLE SRI JUSTICE N. BALAYOGI

CRIMINAL PETITION No. 6467 OF 2011

ORDER:

1. This Criminal Petition under Section 482 Cr.P.C. is filed by the petitioner/Accused No.4 seeking to quash the proceedings in CC.No.84 of 2011 on the file of learned Judicial Magistrate of First Class, Kamalapuram, Kadapa District.

2. According to the petitioner/A.4, the second respondent/complainant lodged a complaint with the Station House Officer, Police Station, Kamalapuram and the same was registered as Cr.No.21 of 2011 against A.1 to A.4 for the offences punishable under Section 498-A IPC. The police after conducting investigation filed the charge sheet.

3. It is the case of the petitioner/A.4 that except the family allegations in the complaint, there is no material placed before the Court to attribute accusation against the petitioner/A.4. There is no *prima face* case against the petitioner and that neither the complaint nor the charge sheet would reveal that the petitioner had harassed or induced the harassment in any way thereby attracting the offences punishable under Section 498-A IPC. It is further contended that as per the complaint, entire alleged transactions have taken place in Visakhapatnam and no

transaction has taken place within the territorial jurisdiction of the learned JFCM, Kamalapuram and that therefore the Court at Kamalapuram has no jurisdiction. It is further contended that she (petitioner) is the married sister of A.1 and is living separately with her husband at Hyderabad and that she has nothing to do with the family affairs of her parents.

4. Learned Assistant Public Prosecutor filed a copy of FIR, which reveals that the petitioner/A.4 along with A.1 to A.3 harassed the second respondent/complainant and that there is sufficient material to convict them.

5. Now the point that arises for consideration is, *whether there is prima facie material against the petitioner/A.4 to prosecute her.*

6. A perusal of the record goes to show that the second respondent/complainant married A.1 on 28.11.2009 at Visakhapatnam. At the time of marriage, the brother of the second respondent gave Rs.4.00 lakhs cash and ten tulas of gold to A.1 to A.3 towards dowry. Though A.1 is the native of Porumamilla, as his father/A.2 was working in ANL Parcel Services at Visakhapatnam, they settled at Visakhapatnam and after the marriage, the second respondent joined A.1 at Visakhapatnam to lead marital life with him. Thereat, the complainant came to know that a young woman, namely, Swetha, staying in their house, who was stated to have been brought up by A.2 and A.3 since her

childhood and they told that said Swetha is like a sister to her husband. Later, the complainant came to know that her husband/A.1 had illegal intimacy with the said Swetha and when she questioned the same, A.1 started harassing her mentally and started staying away from her snapping marital relations with her. Thereafter she reported the matter to A.2 to A.4, who instead of warning A.1, supported him and they too started harassing her. Having no other option, she came out of the marital home and approached the police at Kamalapuram, basing on which, Cr.No.21 of 2011 was registered against A.1 to A.4 for the offence punishable under Section 498-A IPC.

7. The specific overt act alleged against the petitioner in the charge sheet as well as in the FIR is that she married to complainant's cousin brother; as such, the complainant used to inform her (petitioner/A.4) about her grievance and ill treatment being faced by her. But the petitioner/A.4 also supported A.1 to A.3 and advised the complainant that the alleged type of relations are very common in the society and that married ladies should tolerate all these type of incidents and further she threatened her that if she takes any hasty decision, her marital life will be ruined. That is the only allegation levelled against the petitioner. Pertinent to see, it is not all the allegation as urged by the learned Assistant Public Prosecutor. It is to be seen that the petitioner neither harassed her nor induced the harassment in any way nor took any hasty decision to ruin the life of the complainant. In the facts and

circumstances of the case discussed herein above, I am of the considered view that absolutely there is no overt act or specific allegation is attributed against the petitioner/A.4. More so, the petitioner is residing in Hyderabad whereas the accused was residing in Visakhapatnam, and that all the conversations alleged in the complaint as well as charge sheet took place between them over phone. It is thus clear that the petitioner has nothing to do or no way concerned with the impugned proceedings. In view of the above, the impugned proceedings against the petitioner/A.4 are not maintainable and liable to be quashed.

8. Accordingly the Criminal Petition is allowed and the proceedings in CC.No.84 of 2011 on the file of learned Judicial Magistrate of First Class, Kamalapuram, Kadapa District, insofar as the petitioner/A.4 is concerned, are quashed.

9. Miscellaneous petitions pending consideration if any in the Criminal Petition shall stand closed in consequence.

JUSTICE N. BALAYOGI

DATED 31ST JANUARY, 2018.
Msnr_x

