

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.11627 of 2018

ORDER:

The petitioners are A.2-A.Pajeshwari, A.4-A.Mallikarjun and A.5-A.Rama (mother-in-law, brother-in-law and sister-in-law of the defacto-complainant/ wife of A.1-A.Venkateshwara Yadav) among 6 accused of A.3-A.Ilaiah-father-in-law of the defacto-complainant and A.6-Kukatla Buchi Babu-mediator for marriage of A.1 and the defacto-complainant, in C.C.No.416 of 2016 on the file of the Judl.Magistrate of First Class, At Vemulawada, Karimnagar district outcome of crime No.120 of 2006 registered on 15.05.2016 by Vemulawada Police on the report of the 2nd respondent-defacto-complainant for the offences punishable u/ sec.498-A and 420 IPC and u/ s 4 of the Dowry Prohibition Act (for short, 'the DP Act').

2. The complaint of the defacto-complainant reads that marriage of her with A.1 was performed on 08.03.2015 at Vemulwada and at that time, 8 tulas of gold, saree samans and 8 lakhs of dowry were given to A.1 and within one week after the marriage again there was a demand to meet additional dowry of 3 lakhs by the A.1 who used to come home late in the night under intoxication and was harassing like anything physically and mentally with the support of her in-laws A.2 and A.3, besides that even not allowing her to talk with any neighbours by attributing illegal contacts to her. The A.1 was even used to cause her burn injuries with lit cigarette and when she questioned, he threatened her to do away with her by creating accident by opening gas cylinder and lighting. The A.6 deceived the parents of the defacto-complainant in arranging her marriage with the A.1 by saying that the A.1 is an employee. The other accused A.4 and A.5 (brother-in-law and Sister-in-law of the defacto-complainant) also instigated her husband in his demanding for additional dowry and she suffered a lot in the hands of all the accused from which the crime supra is registered.

3. The Police after investigation filed charge sheet by charging only against A.1, A.3 and A.6 and deleted from the array of accused the A.2,A.4 and A.5-the petitioners. The learned Magistrate, deferring with the police opinion of the police, taken cognizance against the accused by the docket order dt.19.12.2016 which reads "*Heard. Perused the material, prima-facie offence U/ Sec.498-A of IPC and Sec.4 of D.P.Act against A.1 to A.5 and U/ Sec.420 of IPC against A.6. Registered. Issued summons to A.1 to A.6. Call on 20.02.2017*".

4. The same is the subject matter of impugment in the quash petition with the contentions that order passed by the Magistrate despite the police filed final report of referring no case against the A.2,A.4 and A.5 is per se unsustainable and outcome of non-application of mind and not even referring to the facts mentioned in the police final report outcome of the investigation of 12 witnesses and thereby the same is liable to be quashed.

5. In spite of service of notice, the 2nd respondent-defacto-complainant did not turn up, taken as heard and heard the learned counsel for the petitioners and the learned Public Prosecutor representing the 1st respondent-State and perused the material on record.

6. From the First Information Report but for general and vague averments, so far as the A.2 to A.4 concerned there are no any specific allegations either for cheating like against A.6 or for cruelty with a demand of additional dowry u/ sec.498-A IPC and Section 4 of the D.P.Act like against A.1. What all added is the parents of the A.1 i.e. A.2 and A.3 are also supporting him and what all further added is A.1's brother and sister i.e. A.4 and A.5 also supporting him but for that there are no any details as to any specific incident against them. However it is the impugment of the police final report and the First Information Report need not be an

encyclopedia if at all the investigation material discloses the complicity of the offence and the crime to sustain the order of the learned Magistrate, else to set aside the order supra.

7. The police final report from the investigation referred supra by examination of 12 witnesses shows that the L.W.1 in her statement reiterated the contents of her complaint. L.W.2-father of defacto-complainant stated that at the time of marriage 8 lakhs of amount and 8 tulas of gold were given as dowry saree samans and after one week of the marriage, the A.1 started harassing the defacto-complainant for additional dowry of 3 lakhs and he used to come late in the nights under intoxication and harassed her physically and mentally. The A.2 to A.5 encouraged the A.1 and also used to harass her and A.6-mediator suppressed the factum of A.1 has no job by pretending as doing job cause performed the marriage of her and A.1 which was believed by her parents and were deceived. The L.W.3-wife of L.W.2 and mother of defacto-complainant reiterated the same and they are not even eye witnesses to any occurrence. Coming to the statements of L.W.4 B.Anjaiah, L.W.5-B.Veena, L.W.6 B.Narayana, L.W.7 B.Lakshmi and L.W.8-K.Narsaiah stated on similar lines of they went to the house of the A.1 to A.3 and persuaded them of L.W.2 has no such capacity to meet the demand of additional dowry of 3 lakhs however A.1 and A.2 did not heed and further stated about A.6 suppressing the fact of A.1 has no job in arranging marriage.

8. What L.W.9 B.Laxmi, a neighbour to the A.1 to A.3 and A.5, a resident of Karimnagar spoke about marriage of defacto-complainant with A.1 performed at Vemulawada on 08.02.2015 and they lived together for one week and after that the A.1 shifted his family to Palwancha of Khammam district and while the couple were staying at Bhupalapalli village the A.1 and A.2 harassed the defacto-complainant for additional dowry and

she came to know the same through defacto-complainant and L.W.10-G.Shirisha, another neighbour, also stated in the similar lines. The L.W.11 A.Venkateshwaramma of Palwancha deposed about the A.1 was studying in Engineering College of Palwancha and the A.1 with his wife stayed in his house on rent of Rs.1000/- for about ten days during which period the couple used to altercate and the defacto-complainant used to state that her husband and father-in-law were harassing her for additional dowry. However at that time but for the A.1 and the defacto-complainant none of other accused came to their house. The L.W.12-N.Venkatesham of Vidya Nagar, Karim Nagar stated that A.4 is a resident of Karim Nagar, staying near to their house along with his family and none of the accused or the defacto-complainant ever visited him but the A.6 cheated the parents of the defacto-complainant by suppressing the fact of the A.1 is not doing any job and arranging the marriage saying as if the A.1 is doing job.

9. From the above statements and substance referred in the chargesheet by the police at page No.3, it clearly shows that there is no whisper worth against the A.3, A.4 and A.5 but for if at all against A.1, A.6 and A.2.

10. Having regard to the above, the vague and stray allegations either from the First Information Report or from the investigation material, that too none of them are witnesses to any ill-treatment much less by any of other accused, the taking cognizance by the learned Magistrate against the A.2, A.4 and A.5 but for against the A.1, A.3 and A.6 as shown in the police final report is unsustainable.

11. Having regard to the above, the Criminal Petition is allowed quashing the proceedings in C.C.No.416 of 2016 on the file of the Judicial Magistrate of First Class at Vemulawada against the petitioners/ A.2,A.4 and A.5 (mother-in-law, brother-in-law and sister-in-law of the defacto-

complainant). The A.2,A.4 and A.5 are acquitted and their bail bonds shall stand cancelled. Pending miscellaneous petitions, if any, shall stand closed.

Dr. JUSTICE B. SIVA SANKARA RAO

Date:14.12.2018
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