

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 10014 OF 2017

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') to quash the proceedings in C.C.No. 85 of 2017 pending on the file of the Court of Chief Metropolitan Magistrate, Hyderabad at Nampally (for short, 'the Court below').

2. Respondent No. 1 is wife of accused No. 2 who was shown as absconding. The petitioners-accused Nos. 1 and 3 are mother-in-law and sister-in-law of respondent No. 1 respectively. As per the allegations of the complaint, the marriage of respondent No. 1 with accused No. 2 was performed on 17-09-2015 as per Muslim rites and customs. At the time of marriage, the parents of respondent No. 1 fulfilled all the demands of the accused. After marriage, respondent No. 1 stayed at her mother-in-law's house. Thereafter, accused No. 2 started demanding respondent No.1 to bring additional dowry at the instigation of the petitioners. Both the petitioners started harassing respondent No. 1 for non-payment of additional dowry and restricted the latter from going outside. Thus, respondent No. 1 was subjected to harassment in different ways for her failure to meet the illegal demand for payment of additional dowry. On the strength of the complaint, police registered a case in crime No. 114 of 2017, issued F.I.R. and took up investigation. During investigation, the investigating agency examined four witnesses and recorded their statements under Section 161 Cr.P.C. Respondent No. 1 in her statement alleged that the petitioners subjected the former for her failure to meet the illegal demand for payment of additional dowry. Similarly, all the witnesses, who were examined on

behalf of respondent No. 1, supported the allegations made against the petitioners.

3. The present petition is filed under Section 482 Cr.P.C. on the ground that the allegations made in the complaint would not constitute any offence even if they are taken on their face value as true and the legal correspondence between the parties would show that respondent No. 1 was not cooperating with the petitioners to live with them though her husband was abroad and therefore lodging the present complaint with police to take action against them and filing charge sheet after completion of investigation is nothing but an abuse of process of the Court and requested to quash the proceedings.

4. During hearing, learned counsel for the petitioners while reiterating the contentions referred above would draw the attention of this Court to order dated 20-06-2017 in CrI.M.P.No. 1956 of 2017 on the file of the Court of I Additional Metropolitan Sessions Judge, Hyderabad, whereunder the petitioners were granted anticipatory bail directing to surrender their passports and submitted that now petitioner No. 1 is suffering from ill-health and she intends to go over to Dubai for treatment and therefore requested this Court to direct the Sessions Court to release her passport.

5. The power of this Court under Section 482 Cr.P.C. is limited and this Court can exercise such inherent jurisdiction only to give effect to the orders passed under the Code or to prevent abuse of process of the Court or to secure ends of justice. Keeping in mind the power of this Court under Section 482 Cr.P.C., the Apex Court in ***State of Haryana Vs. Bhajanlal***¹ laid down seven guidelines which are as follows:

¹ 1992 Supp. (1) SCC 335

- "(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code.
- (3) Where the allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code.
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

Even according to the above guidelines, when the allegations made in charge sheet or F.I.R. disclose commission of any offence on their face value, the Court cannot exercise its inherent power under Section 482 Cr.P.C. Here in this case, the allegations made in the charge sheet *i.e.* subjecting respondent No. 1 to cruelty for her failure to meet the illegal demand of the petitioners for payment of additional dowry would constitute the offence punishable under Section 498-A I.P.C. *prima facie*. Issuance of legal notice is of no use since the offence is allegedly committed one month after the marriage. Therefore, at this stage, it is difficult for this Court to exercise its inherent jurisdiction to quash the proceedings as there is *prima facie* material against these petitioners for the offence referred *supra*. Consequently, the petition is liable to be dismissed.

6. The criminal petition is accordingly dismissed at the stage of admission. Pending miscellaneous petitions, if any, in this criminal petition shall stand dismissed in consequence.

Date: 03-01-2018.

JSK

M.SATYANARAYANA MURTHY, J.