

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.11887 of 2018

ORDER :

The petitioners are A.2 to A.5 in C.C.No.125 of 2018 on the file of the learned Judl.Magistrate of First Class, Bhanswada, Karimnagar district, outcome of Cr.No.72 of 2017, dt.22.11.2007 registered by the Station House Officer, Nasrullabad of Kama Reddy district on the report of the 1<sup>st</sup> respondent-defacto-complainant, for the offences punishable u/ sec.307, 498-A and 494 r/ w 34 IPC and Sec.4 of the Dowry Prohibition Act(for short, 'the DP Act') and the police after investigation filed final report saying the A.1 is liable for offence u/ sec.307, 498-A and 494 read with 109IPC and Sec.4 of the DP Act, the A.2 to A.4 are liable u/ sec.307, 498-A IPC and Sec.4 of the DP Act, A.5 is liable u/ sec.498-A IPC and Sec.4 of the DP Act, A.6 is liable u/ sec.494IPC and A.7 to A.9 are liable u/ sec.109 IPC for performing so called second marriage of A.1 with A.6 and the learned Magistrate taken cognizance by deferring with police for the offences punishable u/ sec.498-A IPC r/ w 34IPC, against A.1 to A.5, u/ sec.494 IPC against A.1 and A.6 and Sec.494 read with 109 IPC against A.2 to A.5 and A.7 to A.9 by the docket order dated 11.04.2016 which is a subject matter of impugnmnt herein.

2. The contentions in the quash petition are that among the petitioners A.2 to A.5, A.2 and A.3 are parents of A.1, A.4 is brother of A.1 and the A.5 is sister of A.1, for the marriage of A.1 with the defacto-complainant performed on 28.11.2013 and they lived at Nizamabad and later at Hyderabad and A.2 was working in Passport Office, Nizamabad since 2012 till he was transferred in 2016 to Hyderabad and the allegation of A.2 and A.3 harassing the defacto-complainant or demanding additional dowry is false and baseless so also in connection against A.4 who never lived with A.1 and the defacto-complainant either at Nizamabad or at Hyderabad and never involved in any offence having completed degree and joined in Hotel Management course in Singapore

and even the A.5-unmarried sister of A.1 after completion of her B.Tech. Degree and after marriage staying at Chandigarh with her husband and children and no way concerned with the marital life of A.1 and the defacto-complainant and unnecessarily roped them in the case and none of the offences are applicable against any of the petitioners but for if at all against the A.1 and thereby liable to be quashed.

3. The defacto-complainant even served as per the track record on 29.11.2018 failed to attend thereby taken as heard and heard the learned counsel for the petitioners/ A.2 to A.5 and the learned Public Prosecutor representing the State and perused the entire material including the First Information Report, charge sheet with statements of the prosecution witnesses L.Ws. 1 to 12 of whom the L.W.1-defacto-complainant is so called victim, L.Ws. 2 and 3 parents of the defacto-complainant, L.Ws. 4 to 9 are so called witnesses to the marriage and the L.Ws.10 to 12 are circumstantial witnesses.

4. A perusal of the FIR and statements of the defacto-complainant, in fact, the learned Magistrate taken cognizance so far as against the A.2 and A.3-the parents of A.1 also out of the 4 petitioners-A.2 to A.5 herein but for if at all against the A.4 and A.5 is concerned, there is in her statement with handwriting in Telugu at page-2 shows during investigation by the police only one allegation so far as the A.4 concerned, who is her husband's younger brother that when she was at Housing Board colony of Kukatpally along with her husband, A.2 to A.4 to get rid of her along with her husband abused as if mental candidate and tied her hands and legs gauging her mouth with cloth and tied to squeeze her neck to kill her and she could get rid of them and saved her life along with the child and came to her parents therefrom. The learned Magistrate did not take cognizance for the offence u/ sec.307IPC as discussed supra but for u/ sec.498-A read with 34 IPC against the A.4 and A.5 also and the other allegation is prior to 24.12.2017 her husband-A.1 brought

her back to the marital life and on 24.12.2017 A.1 to A.4 beat her with hands and kicked with legs and joined her in Erragadda mental hospital where some injection was administered on 25.10.2017 and made her semi-conscious and A.1 sent her by bus to Nizamabad on the even day and her parents received her and taken to their house which is at thanda and as on 27.10.2017 on her gaining consciousness, her parents took her to Prathibha Super Specialty Hospital, Nizamabad where the doctor asked to say the name of injection that was administered to her in order to admit her and when her father asked her husband for its name, he sent a phone message of the injection name as 'Alopredol' and 'Prenorgan' to Doctor, then the Doctor treated her and she gained consciousness on 29.10.2017.

5. Practically there is no allegation so far as A.5 and these are the two allegations discussed supra against A.4 in naming him along with the other accused. The record shows the A.4 is ready to join job and he pursued his academics by staying outside. Thereby and to subserve the ends of justice, the cognizance order against the A.4 and A.5 by the passed by the learned Magistrate is quashed but for dismissing the quash petition so far as against the A.2 and A.3.

6. Having regard to the above, the Criminal Petition is allowed in part quashing the proceedings in C.C.No.125 of 2018 on the file of the learned Judl.Magistrate of First Class, Bhanswada, Karimnagar district, outcome of Cr.No.72 of 2017, dt.22.11.2007 registered by the Station House Officer, Nasrullabad against the A.4 and A.5 by dismissing against the A.2 and A.3. The A.4 and A.5 are acquitted and their bail bonds shall stand cancelled. Consequently, pending miscellaneous petitions, if any shall stand closed.

Dr. B.SIVA SANKARA RAO J,

Date:19.12.2018

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