

**HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO**

**CRIMINAL PETITION No.12027 of 2018**

**ORDER:**

Among the 4 accused, the petitioners are accused Nos.3 & 4 no other than defacto complainant's husband's mother and sister, A.2 is A.1's father since no more. It is from the defacto complainant's report in registration of the crime No.221 of 2013 by Arilova Zone, P.M. Palem Police Station, Visakhapatnam Commissionerate, for the offences punishable under Sections 498-A IPC and Sections 3 & 4 of Dowry Prohibition Act. From the investigation filed final report that was taken cognizance therefrom for the offences supra by the learned I Additional Chief Metropolitan Magistrate, Visakhapatnam, where the case is pending for trial. The same is now impugned in seeking to quash so far as A.3 and A.4 concerned.

Heard learned counsel for the petitioners. Notice sent to 1<sup>st</sup> respondent-defacto complainant acknowledged and failed to come, hence taken as heard and also heard learned Public Prosecutor representing the 2<sup>nd</sup> respondent-State and perused the material on record.

A perusal of the FIR shows general allegations by cruel treatment mentally from the abuse of the defacto complainant was stout and cot brought is big to be sold away and to meet for additional dowry demands in cash and kind. From the investigation what defacto complainant stated particularly

among the LWs.1 to 7 cited of whom LW.2 is mother, LW.3-brother, LWs.4 to 7 are other circumstantial witnesses including maternal uncle from Visakhapatnam. LWs.2 & 3 are from Hosepet. The crime originally registered at Hosepet and on point of jurisdiction sent to Visakhapatnam Commissionerate. Among them what LW.1 stated is after the marriage dated 23.05.2010 at Visakhapatnam where her husband was working as team leader of HSBC, she joined marital life with her husband in the joint family of husband, parents in law and sister in law (A.1 to A.4) at Visalakshinagar, Sainadh Residency and they stayed at about 1 ½ year there. During that stay from day two onwards all the accused started harassing mentally in asking her to do job and otherwise she is fat by insulting also by saying she was eating more and the bed to be shared by her husband was big in size to be sold out and when she was aborted accidentally at 4<sup>th</sup> month of first pregnancy by attributing as she intentionally cause aborted and by threatening to perform another marriage to A.1 more particularly with that instigation by A.4. It is further that what she stated is she and her husband was staying separately at Visakhapatnam away to other accused, subsequently what she narrated is ill-treatment physically and mentally including for additional dowry demands including further birth of male child in their wedlock at different places right from Visakhapatnam by her husband. It is added further by saying A.4-sister in law once

told without even specific instance as to date or time or month or place or she studied Law and she will commence her profession by filing divorce against her on behalf of her brother. What she further stated is her maternal uncles and other members of the family L.Ws.3 & 4 of Visakhapatnam persuaded including by meeting additional dowry demands of A.1. It is further stated all the accused made her to suffer hence to take legal action. The complaint was given to Hosepet Police Station, Karnataka State, on 10.05.2013 that was registered therein as crime No.61 of 2013 and later referred to Visakhapatnam police as detailed supra.

But for the stray allegations in so far as A.2 since no more, A.3 & A.4 the petitioners that to while they are staying at Visakhapatnam in joint family house at Visakhapatnam for 1 ½ year immediately after marriage in May 2010 there are no any specific instances but for general including only the so called thereby by sister in law to cause file divorce case by A.1 against defacto complainant, no other worth allegations thereby the general and vague allegations will not rope the family members of the husband as per the settled expressions for the learned Magistrate to take cognizance against the petitioners-A.3 & A.4.

Having regard to the above, from perusal of the material as there are no worth sustainable specific allegations making out the offence of cruelty or dowry harassment against the petitioners within the meaning of Section 498-A IPC besides

Sections 3 & 4 of Dowry Prohibition Act, the cognizance order of the learned Magistrate is liable to be quashed.

Accordingly and in the result, this Criminal Petition is allowed and the cognizance order of the learned Magistrate is quashed against the accused in crime No.221 of 2013 by Arilova Zone, P.M. Palem Police Station, Visakhapatnam, accused are acquitted and the bail bonds of the accused, if any, shall stand cancelled.

Miscellaneous petitions, if any, shall stand closed.

Date: 11.12.2018  
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**Dr. B. SIVA SANKARA RAO, J**

