

HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.12223 of 2018

ORDER :

The petitioner is A.2 in C.C.No.1246 of 2014 on the file of the I Addl. Chief Metropolitan Magistrate, Visakhapatnam, outcome of Cr.No.692 of 2013 of III Town Police Station, Visakhapatnam, registered for offences punishable u/sec.498-A, 420 read with 34 IPC and u/sec.3 and 4 of the Dowry Prohibition Act, on the report of the 2nd respondent/complainant. It is impugning the said cognizance order on the police final report from the crime supra, the Criminal Petition is filed to quash the same.

2. The sum and substance of the accusation in the report supra of the complainant against the 6 accused is that she and her parents are residing at Visakhapatnam HPCL quarters, near Andhra University out Gate. Her marriage was performed with Ashutosh Saxena-A.1 on 09.07.2011 in Bareilly in Utter Pradesh State arranged through the elders. There was an understanding to meet marriage expenditure with a maximum budget of 12lakhs. Her husband who was earning substantially by then stated that he was studying in US and after few years he would return to India and meantime acquire some additional qualifications there. After the marriage settlement and before marriage, the accused persons started demanding 8 lakhs over phone in addition to 12lakhs budget already agreed and when she contacted Ashuthosh Saxena-A.1 over phone he told that the additional amount is only for her admission fee in Cornell University and further stated that she should go to US on F1 Visa meant for students. When she questioned him as to why she cannot travel on F2 Visa as his wife, he made her believe of there were certain advantages. On 03.07.2011 which is 5 days before the marriage both the families went for shopping and her father paid bill for the clothes etc., but they did not satisfy in spite of her mother's request not to meet any more and her father thereby declared of

better to cancel the marriage proposal for which the accused persons persuaded and ultimately the marriage was performed on 09.07.2011 as scheduled. However, thereafter within no time after the guests left, they showed their true colours even by shouting on their father of marriage not performed up to their standards and they committed mistake in not going to another match which offered 50lakhs and on the first night also her husband kept on grumbling that her parents were misers and did not spend lavishly and ought to have given more cash as dowry when there were many others who would provide more dowry and he even damaged her character by saying that while she was working in Mumbai for one year before marriage, she must have accustomed to have sex with her colleagues and other friends and that it could not be her first night. He also said that he hacked her face book profile and knew that she has many boy friends and it is not possible to keep her virginity and he even declared before his family members that he was still interested in having sex with old friends. When she requested him not to utter such disgusting words, he said that she had no right to question his deeds being his wife. On 11.07.2011 when her colleagues called on her and suggested herself and her husband to go to some beautiful places in Mumbai like Marine Drive, Ajanta Caves etc., he attributed unchastity to her stating that she must have roamed all such places with them as otherwise, they would not have made such suggestions. On 12.07.2011 when her father requested them to send her to Visakhapatnam for a brief stay, he and his mother declared that they cannot expect such formalities from them and also her mother-in-law took away all her gold ornaments worth about 6lakhs and all her educational certificates and documents on the pretext of safe custody. On 20.07.2011 before leaving to States, he asked her to join him on 30th July and handed over her the letter of admission in which it was clearly mentioned that she need not pay any tuition fees at all which fact clearly indicates their

cheating her indirectly collecting more dowry. He again scolded her father for not sending money to meet the expenditure for their honey moon trip and also in the said trip, he commented her in vulgar language on her dressing stating that she wore them only to attract other male members. He used to scold her in unparliamentary language with the words like Chutia which is no decent female with self respect could tolerate. Her mother-in-law also used to scold her making wild, senseless and shameful allegations against her. He slapped her and threatened to do away with her if she talk anything about him. He used to throw articles on her face when she questions his indecent acts. Later he started saying that her father should send money for her maintenance, failing which, he would marry another rich girl. He used to converse with his mother and other family members over phone saying that they would wait for some more days and if her father fails to arrange money, they would search for another girl. Whenever any male members visits their house, he used to insult her in front of them, twisting the words so as to use them as weapons to attack my character. When a female member visits their house, he used to say that in America, girls are habituated to have sex with 20 to 30 boys in a night. He also used to take her out and pick out altercation and leave her on the way alone to her fate, since she was not acquainted with the places there. He even directed the bank officials to de-activate her credit card which was an add-on card to that of my husband and because of that act, she was very badly in need of money in America.

3. Finally, on 25-09-2011, her husband left the house leaving her alone providing for maintenance and stated that he does not want to get in trouble with American laws and hence would only pay maintenance till she was in America. When she wanted to know where he was, he used to threaten her that he would complain to the police of she harassing him. He also took away the HCL Lap Top on which she was working knowing fully

well that all her important presentations, soft wares and codes were stored therein. He did not even allow her to copy them in spite of requests. On the advice of her father, she took the help of counsellor and in the session of counsellor, he asked her to sign an agreement undertaking that she would not talk to any one else about the harassment done by him. When she refused he demanded to give divorce. During those days of turmoil, the counsellor was able to convince her husband to provide her \$650 per month towards her personal expenses for food and books. Later, he stopped paying that amount also, making her totally dependent on her parents.

4. On knowing her pitiable condition in U.S., her parents brought her to India for a few days in December 2011 and again sent her back to continue counsellor sessions but her husband stopped coming to the sessions and even after her repeated requests he threatened her saying he will put harassment charges on her. Since jewellery and certificates and other educational records are in the custody of her mother-in-law, when she requested both of them to return, they did not care. In January 2012, on her return to United States from India, she noticed that the furniture in her apartment was taken away by her husband, as he decided to go for 2nd marriage and put up separate family and residence. When she requested not to break the marriage, he threatened her that he would file a complaint against her for harassment and easily get her removed from the University with least effort as she got admission through him. He also started pressurising her for taking divorce by mutual Consent or face the consequences mentioned above. In addition to the cash of Rs.20 lakhs extracted from her parents, they also retained her gold ornaments and educational records, as a tool to blackmail her to give consent for mutual divorce, which she is not interested at all. Hence the complaint.

5. Heard the learned counsel for the petitioner and the learned Public Prosecutor for the 1st respondent-State and the also the learned

counsel for the 2nd respondent-complainant and perused the material on record.

6. The only allegation against her mother-in-law the petitioner herein is at the pre-marriage period and post-engagement time they extracted some amounts including for purchase of clothes etc., her ornaments and educational certificates are with her mother-in-law which she laid down for safe custody but for that there is no worth allegations against her mother-in-law leave about most of the acts are ill-treatment against her by her husband in US and some at Hyderabad.

7. Having regard to the above, the bald and vague allegations against the petitioner/A.2 will not constitute an offence of cruelty and to continue the proceedings against the petitioner is nothing but abuse and the same are liable to be quashed.

8. In the result, the Criminal Petition is allowed by quashing the proceedings against the petitioner/A.2 in C.C.No.1246 of 2014 on the file of I Addl.Chief Metropolitan Magistrate, Visakhapatnam, outcome of Cr.No.692 of 2013 of III Town Police Station, Visakhapatnam. The petitioner/A.2 is acquitted and her bail bonds shall stand cancelled. Pending miscellaneous petitions, if any, shall stand closed.

Date:31.12.2018
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Dr. B.SIVA SANKARA RAO J,