

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.10274 of 2017

ORDER

This criminal petition is filed under Section 482 of Cr.P.C. to quash the proceedings in Cr.No.55 of 2017 of I Town Police Station, Nellore, Nellore District, registered for the offence punishable under Section 498-A IPC, against the petitioners/A1 to A3, A6 and A7 and other accused, on the strength of the report lodged by the first respondent with the police making allegations that she was subjected to cruelty for her failure to meet the illegal demand for payment of dowry.

2. It is alleged in the report lodged with the police that the marriage of first respondent was performed with the first petitioner/A1 on 04.08.2016 and at the time of marriage, her mother-in-law, second petitioner/A2, represented that her son was a B.Tech., graduate and earning a sum of Rs.25,000/- per month as salary and made them to believe and to accept the marriage proposal. But, after marriage, the de-facto complainant came to know that her husband did not complete his B.Tech., graduation and when she questioned about the same, A1 and A2 started abusing her saying that she has to maintain them by doing job and A1 had no necessity to work and the marriage was performed only to satisfy the lust of A1. It is further alleged that A1 and A2 also demanded her to satisfy their wants. It is further alleged that her father-in-law, who was residing in Kuwait, her sister-in-laws, who were residing in her in-laws house, also abused her and directed to hear the words of

A1, otherwise, she would face serious consequences, and that as she was pregnant and apprehending danger in the hands of the accused, she returned to her parents' house and therefore, she requested the police to take necessary action.

3. The main contention of petitioners in the present petition is that there is absolutely no allegation against the petitioners to attract the offence punishable under Section 498-A IPC and when the complaint is bereft of the details of commission of the said offence, the proceedings against the petitioners are liable to be quashed.

4. Learned counsel for petitioners Sri T.C.Krishnan, contended that as per the material on record, except the allegation that the accused abused the first respondent and as she was apprehending danger to her life in the hands of the accused, she came back to her parents' house, there is no allegation against the petitioners and that the allegation of abuse would not attract the demand of dowry. Taking advantage of the absence of details in the report lodged with the police, the counsel further contended that when the complaint did not disclose the commission of offence punishable under Section 498-A IPC, the Court can quash the proceedings.

5. The investigation is at fetus stage and till today, the investigation is not yet commenced. No doubt, the complaint did not disclose specifically that the petitioners abused the first respondent in connection with dowry. But the FIR is only information to the police about the commission of a cognizable offence to set the criminal law into motion and it need not contain minute details to

constitute a particular offence. When the investigation is not yet commenced and the total facts are incomplete and hazy irrespective of magnitude of the factual or legal issues, the Court cannot stifle the legitimate prosecution at the threshold in view of the law declared by the Apex Court in ***State of Orissa v. Saroj Kumar Sahoo***¹, wherein it was held that the inherent powers under Section 482 Cr.P.C. should not be exercised by the High Court to stifle a legitimate prosecution. The High Court being the highest Court of a State should normally refrain from giving a *prima facie* decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard and fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. While exercising jurisdiction under Section 482 of the Cr. P.C., it is not permissible for the Court to act as if it was a trial court. Even when charge is framed at that stage, the Court has to only *prima facie* be satisfied about existence of sufficient ground for proceeding against the accused. For that limited purpose, the Court can evaluate material and documents on record but it cannot appreciate evidence. The Court is not required to appreciate evidence to conclude whether the material produced is sufficient or not for convicting the accused.

¹ (2005) 13 SCC 540

6. In “**Kurukshetra University v. State Of Haryana**²”, the Supreme Court took a serious view about quashing the proceedings by the High Court while exercising power under Section 482 Cr.P.C and observed as follows:

“It surprises, us in the extreme that the High Court thought that in the exercise of its inherent powers under Section 482 of the CrPC, it could quash a First Information Report. The police had not even commenced investigation into the complaint filed by the Warden of the University and no proceeding at all was pending in any court in pursuance of the F.I.R. It ought to be realized that inherent powers do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice. That statutory power has to be exercised sparingly, with circumspection and in the rarest of rare cases.”

7. Therefore, in view of the law declared by the Apex Court in “**State of Orissa v. Saroj Kumar Sahoo**” and “**Kurukshetra University v. State Of Haryana**” (referred supra) when the investigation is not yet commenced, except registration of a crime, based on the report lodged with the police, on the ground that the complaint did not disclose commission of offence, the proceedings cannot be quashed.

8. Since the report is only information to the police about the commission of cognizable offence to set the criminal law into motion, that by itself is not a specific piece of evidence and it can be used only for limited purpose. Therefore, at this stage when the investigation is not yet commenced and by applying the principles laid down in the above judgments, I find that there are no grounds to quash the proceedings.

² AIR 1977 SC 2229

9. The counsel for the petitioners, at this stage, requested this Court to pass an order not to arrest the petitioners while directing the investigating agency to complete the investigation. But, such request cannot be acceded to in view of the law declared by this Court in **The State of Telangana V. Habib Abdullah Jeelani and others**³. However, the police concerned are bound to follow the procedure under Section 41-A Cr.P.C., and the guidelines issued by the Apex Court in **Arnesh Kumar v. State of Bihar**⁴.

10. In the result, the Criminal Petition is dismissed. Miscellaneous petitions, if any, pending in the criminal petition, shall stand dismissed.

5th January, 2018

sj

M. SATYANARAYANA MURTHY, J

³ (2017) 2 SCC 779

⁴ (2014) 8 SCC 273