

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.9849 OF 2017

ORDER:

This Criminal Petition is filed by the petitioner-A4 under Section 482 Cr.P.C. to quash the proceedings in C.C.No.1235 of 2017, pending on the file of the IX Metropolitan Magistrate, Kukatpally at Miyapur, Cyberabad, which was taken cognizance of the offence punishable under Section 498-A IPC.

2. The petitioner, who is A4 is the nephew of the husband of the 2nd respondent-de facto complainant. The 2nd respondent-Smt.R.Sree Veena lodged a report with the police alleging that this petitioner dragged her out of the house and tried to beat her and asked her to go out of the house besides making other allegations against other accused. On the strength of the report, police registered a case in Cr.No.368 of 2015 for the offence punishable under Section 498-A IPC only and issued F.I.R. Later, the Sub Inspector of Police, took up investigation and examined L.Ws. 1 to 8 and recorded their statements under Section 161 (3) Cr.P.C. and on satisfying that the petitioner and other accused committed the offence punishable under Section 498-A IPC, *prima facie* filed charge sheet before the Magistrate and the Magistrate in turn, took cognizance of the offence under Section 498-A IPC only against the petitioner and others.

3. The present petition is filed stating that there is no allegation against this petitioner to attract offence punishable under Section 498-A IPC and the proceedings against him cannot be proceeded.

4. During hearing, learned counsel for the petitioner drawn attention of this Court to the specific allegations made

in the charge sheet and as well as in the statement of the victim-de facto complainant recorded under Section 161 (3) Cr.P.C. during investigation. On the strength of the allegation made against this petitioner, it is contended that the act committed by this petitioner would not fall within the explanation to Section 498-A IPC and requested this Court to quash the proceedings against the petitioner.

5. On the other hand, Mr.C.Damodar Reddy, learned counsel for the 2nd respondent contended that the allegations made in the charge sheet, more particularly the statement of the victim-2nd respondent recorded under Section 161 (3) Cr.P.C. is suffice to conclude that this petitioner subjected the de facto complainant to cruelty in connection with demand of dowry and requested to dismiss the petition.

6. It is an undisputed fact that this petitioner is the nephew of the husband of the de facto complainant. The petitioner is undoubtedly a relative of the husband of the de facto complainant and to proceed under Section 498-A IPC, the accused must be husband or relative of the husband of a woman subjecting her to cruelty. Therefore, the petitioner would fall within the ambit of relative of the husband. According to Section 498-A I.P.C., whoever, being the husband or the relative of the husband of a woman subjects her to cruelty, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation thereto explains what is meaning of cruelty. According to clause (a) any willful conduct which is of a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or (b) harassment of the woman where such harassment is

with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

7. The act attributed to this petitioner in the charge sheet as well as in the statement of the de facto complainant recorded under Section 161 (3) Cr.P.C., would not fall within the ambit of clause (a) and (b) of the explanation to Section 498-A IPC. The simple allegation made against the petitioner in the charge sheet as follows:

“When the complainant demanded for personal belongings the accused refused everything i.e., 1. Laptop, 2. Two cell phones with head phones, 3. Gold ornaments i.e., one chain, two rings, 4. Silver items, 5. P.R. Card, Passport ATM Cards, Bank Cards, 6. Hospital file and 7. Adhar Cards and other household articles. Later the complainant was assaulted by her in-laws and Mr. Ch. Rohit who is son of her sister-in-law and was mercilessly necked out her from her own house.”

8. Thus, the allegation made against the petitioner- Ch. Rohit is that he necked the de facto complainant from out of the house mercilessly. Whereas, in the statement of the victim-de facto complainant recorded by the police during the course of investigation under Section 161 (3) Cr.P.C., she specifically stated as follows:

“The elder sister-in-law’s son Rohit dragged me out of the house and tried to beat me and also told me to get out of the house.”

9. Thus, none of the allegations made either in the charge sheet or in the statement of the victim-de facto complainant recorded under Section 161 (3) Cr.P.C. do not fall within the ambit of cruelty as explained in explanation to Section 498-A IPC, since, the petitioner never subjected the victim to cruelty for her failure to meet illegal demand or at least by her relatives. The allegations made in the

charge sheet against the petitioner would not constitute an offence punishable under Section 498-A IPC. Therefore, this Court exercises the power under Section 482 Cr.P.C. to quash the proceedings, since the continuation of proceedings against this petitioner without any allegations amounts to abuse of process of law by applying the guideline No.7 as laid down by the Apex Court in leading judgment in **STATE OF HARYANA V BAJANLAL** ¹.

10. Accordingly, the Criminal Petition is allowed quashing the proceedings against the petitioner-A4 in C.C.No.1235 of 2017, pending on the file of the IX Metropolitan Magistrate, Kukatpally at Miyapur, Cyberabad. Miscellaneous petitions, if any pending in this petition shall stand closed.

DATED: 08-08-2018.
Hsd

M.SATYANARAYANA MURTHY, J

¹ 1992 SUPP. (1) SCC 335