

HONOURABLE Dr.JUSTICE B. SIVA SANKARA RAO

Criminal Petition No.388 of 2019

ORDER:

The petitioners 1 and 2 mother and sister-in-law respectively of the defacto-complainant are A.2 and A.4 among 4 accused including husband-A.1 and other sister-in-law-A.3 of the defacto-complainant in C.C.No.223 of 2017 on the file of the XIII Addl.Chief Metropolitan Magistrate, Hyderabad, outcome of Cr.No.589 of 2016 of Woman Police Station, DD, CCS, Hyderabad, registered for offences punishable under Sections 498-A, 406 of IPC and under Sections 4 and 6 of the Dowry Prohibition Act (for short, 'the DP Act'), on the report dt.07.10.2016 of the 1st respondent/ defacto-complainant.

2. The averments in the report of the defacto-complainant in registration of the crime supra are that her marriage with the A.1 was performed on 14.12.2015. Before marriage, her in-laws, the accused persons promised to look after her as their own daughter stating that the A.1 was very much attracted towards her. After their engagement, mother of the defacto-complainant was coerced to sell an open plot to a party brought by her in-laws and the entire consideration was taken by them under the pretext of they will take care of marriage arrangements as the older brothers and sisters of her mother are living away from Hyderabad. For the marriage function, Malakpet MLA Ahmed Balala, Charminar MLA Syed Ahmed pasha Quadri, Yakuthputu MLA Mouzam Khan, Telangana Minister T. Padma Rao Goud and other politicians attended. After marriage, she went to matrimonial home, which is a rental house where her father-in-law Mohammed Iliyas and mother-in-law Sabiha Begum-A.2 (1st petitioner), sister-in-law-Saba Tasneem and Zeba Nayeem (2nd petitioner) with their respective husbands were residing and they started harassing her. Though her sister-in-law Zeba(A.4) has a flat in 4th floor in the same apartment, she used to stay mostly in the flat of A.1. After Valima (reception) on 06-12-2015, after relatives left, all the accused persons commented on dowry and she was made to attend entire household work though it was not culture tradition to do so immediately after a wedding. They removed servant-maid and made her to attend household work of clearing the rooms, mopping the floor, washing

utensils, cooking, serving and washing clothes etc. and even in the late nights she was put to prepare food for them and never helped her in work. Her mother-in-law-A.2 warned her not to go to her parental house and talk with them over phone and always complained about her to her husband-A.1 and as a result, he was violent with her and once slapped her. The A.1 demanded her elder brother Haneef to give Rs.50,00,000/- (Rupees Fifty Lakhs only) and a Fortuner car, and when refused, it worsened relationship. Her mother-in-law(A.2) states that her son got very rich alliances with huge dowry but to his bad luck, he got stuck with the defacto-complainant. She also demanded her to take responsibility of her sisters-in-law, who always harassed her saying she did not bring many dresses, gold and used to sit on sofa and pass orders. When her sister-in-law Zeba(A.4) delivered a boy in a hospital on 27-3-2016, she was subjected to attend all her needs of bringing food to hospital etc., including household work. On the 11th day ceremony of the baby, she was forced to attend all the household work including washing floors and cooking food for all the guests while the petitioners were interacting with relatives. Her husband-A.1, after marriage changed his attitude and stated that only for the purpose of domestic work, he married her and not at all treated her as a human being. Her husband got very upset when she suggested him to be legal and fair in business and not to attempt illegal methods. On 18-4-2016 when she called him of her returning home after seeing her ailing mother, he said she need not return and when she questioned, there was no answer. Then herself and her brother went home and knocked the door for a long time but the A.1 did not respond. On 7-5-2016, her husband came to her house along with her sister-in-law zeba-A.4, their relatives Subhanim, Farid and Mehdi and when she explained the instances of their cruelty toward her, they went away abruptly and thereafter no communication from them. Further her mother-in-law took her all her silver and gold jewellery and not returning despite her requests and now the same are with her mother-in-law only. Later, her husband did not respond to her phone calls and messages to take her back. On 17-9-2016, she went to her in-laws house along with 15 members and knocked the door to open and waited there for about 3 hours but they did not respond. Later they threatened to throw acid on her and her mother if

do not sign on divorce papers. Her brother also received threat twice, once on 25.09.2016 and 27.09.2016 and thrown their family in fear. They did not provide her even breakfast and just give her one apple and used to comment on her weight and put her to starve. Hence she states that she is not in a position to face them and seeks the police to get back her jewellery weighing around 105 tulas from her mother-in-law and take action against the accused persons including the petitioners as per law.

3. The police after registering the complaint as the crime supra for the above offences, investigated the case and filed chargesheet.

4. The petitioners impugning the above crime, filed the quash petition with the contentions that there are no specific allegations against them to attract any offence as alleged much less such acts cannot drive a woman to commit suicide or cause grave injury to her, nor any demand for additional dowry, that the entire case is against A.1 only but they are just roped for mere relatives. The 2nd petitioner-A.4 is living separately with her family and nothing to do with the life of the defacto-complainant. It is further submitted that when the police deleted the A.3 (one of the two sisters-in-law of the defacto-complainant) from the chargesheet on the ground of she is staying away and has nothing to do with the life of the defacto-complainant, the 2nd petitioner-A.4 another sister-in-law, who is also staying away, also gets the same benefit as the allegations are self-same. Hence, to allow the petition by quashing the proceedings in the crime supra.

5. Heard the learned counsel for the petitioners/A.2 and A.4 and the learned Public Prosecutor representing the 2nd respondent/State and also the learned counsel for the 1st respondent-defacto-complainant and perused the material on record.

6. The Apex Court in Neelu Chopra Vs. Bharati¹, Kailash Chandra Agarwal Vs. State of UP², Kansraj Vs. State of Punjab³ and Geeta Mehrotra Vs. State of Utter Pradesh⁴, and Manoj Mahavirprasad Khaiton Vs. Ram Gopal Poddar⁵

¹ 2010(1)ALT(CrI) 146 SC,

² 2015(1) ALT(CrI)229(SC),

³ 2000(5) SCC 30

⁴ 2012 10 SCC 741

categorically held that unless there are specific allegations in the complaint against other relatives of husband, no cognizance can be taken against the family members, more particularly from the tendency of making baseless allegations in roping them. Even a stray sentence as suffered harassment in the house of in-laws not sufficient as held by this Court while quashing from such a bald statement in *Shhaik Kusrouddin Vs. State of A.P.*⁶ against the in-laws and other relatives of the husband. It is also held by the latest expression of the Apex Court in *Taramanio Parakh Vs. State of M.P.*⁷ that if the allegations not make out a case, it can be held as abuse of process to continue the crime proceedings. It is further held that in matrimonial cases, Courts have to be cautious when omnibus allegations are made particularly against relatives of husband. Coming to the family members of the husband who are the petitioners-A.2 to A.5 and any specific overt acts with date, time, and place to attribute any specific role against any of them, no ingredients of the offences alleged supra that apply.

7. In fact a perusal of the material on record shows specific instances and specific allegations against all accused. So far as the deletion of name of A.3 from the chargesheet by the police what was stated is A.3 is no way concerned with the matrimonial life of the defacto-complainant as she is staying separately. The claim of same benefit equally available to the A.4-the 2nd petitioner in claiming as if residing separately is concerned, on perusal of the quash petition cause title at address particulars, same Door Number that of A.3 is given to A.2 and A.4 and not shown any separate residences for the claim of residing separately by the A.4 and the chargesheet also speaks the same of all are residents of same door number and as such even police did not choose to file final report against the A.3 and the learned Magistrate did not choose to take cognizance for the offence by showing A.3 also but that does not mean during trial if at all there is any evidence, Section 319 CrPC cannot be invoked even against the A.3, there is nothing to give such benefit of A.3 to A.4.

⁵ 2010(10) SCC 673

⁶ (2004) 2 ALD CrI.195

⁷ 2015(2) ALT(CrI) 336 SC

8. Having regard to the above, there is no material on record and no grounds to quash the proceedings against the petitioners/ A.2 and A.4.

9. In the result, the Criminal Petition is dismissed however it is made clear that none of the observations will influence the mind of the trial Court in deciding the case on own merits. Consequently, pending miscellaneous petitions, if any, shall stand closed.

Dr. B.SIVA SANKARA RAO J,

Date:03.04.2019
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