

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No. 2819 of 2019

ORDER:

1. This Criminal Petition is filed under Section 482 Cr.P.C. seeking to quash the proceedings in C.C.No.3064 of 2018 on the file of the XIX Additional Metropolitan Magistrate, Kukatpally, Cyberabad, Hyderabad.

2. A charge sheet came to be filed against the petitioner-accused for the offence punishable under Section 498-A IPC. It is alleged in the charge sheet that the marriage of the petitioner with the 2nd respondent was solemnized on 14.08.2014 in the presence of elders. Out of wedlock, they were blessed with a male child, aged 2 years. Since three years, the petitioner is harassing the 2nd respondent both physically and mentally to bring additional dowry. In the month of November, 2017, when the 2nd respondent filed a petition against the petitioner about the harassments, police summoned both of them and made counselling and send them to Bangalore. Since last 4 months, she used to stay at Bangalore, but there is no change in his mind set and his harassment was increased. On 17.03.2018 at about 10.00 hours, the petitioner beat her and hit her to the wall to get additional dowry from her parents and also threatened her to give divorce stating that if he marries another woman, he will get dowry of

Rs.25 lakhs. It is further alleged that the in-laws of the 2nd respondent have instigated the petitioner to torture her. Due to unbearable torture of her husband, she came to Hyderabad and staying with her parents. Basing on the said allegations, a case in Crime No.185 of 2018 for the offence punishable under Section 498-A IPC came to be registered. After completing the investigation, the police filed charge sheet, which was numbered as C.C.No.3064 of 2018.

3. Heard learned counsel for the petitioner, learned Additional Public Prosecutor for the State and the learned counsel for the 2nd respondent. Entire record has been perused.

4. Learned counsel for the petitioner submits that the petitioner has not committed any offence, much less the alleged offence. He further submits that the 2nd respondent roped the parents of the petitioner though they never lived with the petitioner and the 2nd respondent and they have got nothing to do with the alleged acts of the petitioner. After completion of investigation, police found the falsity of the allegations against them and deleted their names and filed charge sheet. He further submits that the police filed charge sheet without application of mind. The allegations made in the complaint do not make out *prima facie* offence.

He further submits that the 2nd respondent lodged the complaint only to harass the petitioner so as to come for terms. Hence, the proceedings against the petitioner are liable to be quashed.

5. All the contentions raised by the learned Counsel for the petitioner relate to disputed questions of fact. The Court has also been called upon to adjudge the testimonial worth of the prosecution evidence and evaluate the same on the basis of various intricacies of factual details which have been touched upon by the learned Counsel for the petitioner. The veracity and credibility of material furnished on behalf of the prosecution has been questioned and false implication has been pleaded.

6. The law regarding sufficiency of material which may justify the summoning of the accused and also the Court's decisions to proceed against him in a given case is well settled. The Court has to eschew itself from embarking upon a roving enquiry into the last details of the case. It is also not advisable to adjudge whether the case shall ultimately end in conviction or not. Only a *prima facie* satisfaction of the Court about the existence of sufficient ground to proceed in the matter is required.

7. Through catena of decisions given by the Hon'ble Apex Court, this legal aspect has been expatiated upon at

length and the law that has evolved over a period of several decades is too well settled. The cases of *Chandra Deo Singh v. Prokash Chandra Bose*¹; *Vadilal Panchal v. Dattatreya Dulaji Ghadigaonker*² and *Smt. Nagawwa v. Veeranna Shivalingappa Konjalgi*³ may be usefully referred to in this regard.

8. The cases where the allegations made against the accused or the evidence collected by the investigating officer do not constitute any offence or where the allegations are absurd or extremely improbable or impossible to believe or where the prosecution is legally barred or where the criminal proceeding is malicious and *mala fide*, instituted with an ulterior motive of grudge and vengeance alone may be fit cases for the High Court in which the criminal proceedings may be quashed. The Hon'ble Apex Court in *State of Haryana v. Bhajan Lal*⁴ has recognized certain categories in which Section 482 Cr.P.C. or Article 226 of the Constitution of India may be successfully invoked.

9. In view of the settled principles of the above case laws, this Court has adverted to the entire case record. The submissions made by the learned counsel for the petitioner

¹ AIR 1963 SC 1430

² AIR 1960 SC 1113

³ (1976) 3 SCC 736

⁴ (1992) SCC (Cr.) 426

call for adjudication on pure questions of fact which may be adequately adjudicated upon only by the trial Court and while doing so, even the submissions made on points of law can also be more appropriately gone into by the trial Court in this case. This Court does not deem it proper, and therefore cannot be persuaded to have a pre-trial before the actual trial begins.

10. It shall suffice to observe that the perusal of the F.I.R. and the material collected by the investigating officer on the basis of which charge sheet has been submitted makes out a *prima facie* case against the petitioner at this stage and there appear to be sufficient ground for proceeding against him. I do not find any justification to quash the charge sheet or the proceedings initiated against the petitioner as the case does not fall in any of the categories recognized by the Apex Court which may justify their quashing. Therefore, the prayer for quashing is refused.

11. Accordingly, the Criminal Petition is dismissed. As a sequel thereto, Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

JUSTICE G. SRI DEVI

DATED: 09-12-2019

Hsd

