

THE HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.11034 of 2015

ORDER :

The petitioners are A.2 to A.4 of whom A.4 stated died. They are seeking to quash the proceedings in C.C.No.354 of 2015 pending on the file of the I Additional Judicial First Class Magistrate, Warangal, where the learned Magistrate has taken cognizance for the offences punishable under Sections 498-A, 313, 406 and 506 IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961, including against A.1, no other than the husband of the *de facto* complainant, and A.5. A.2 and A.3 are the parents of A.1. A.4 is since died brother of A.1. It is based on the report of the *de facto* complainant, dated 08.06.2012, addressed to the Additional Director General of Police, CID, Hyderabad, in Crime No.46 of 2012 was registered for the offences supra. The report reads that the marriage of the *de facto* complainant Smt. T.Padma @ V. Padma W/o.T.Sai Prasanna Kumar (A.1) performed on 17.11.2005 at Warangal, arranged through elders including one Rama Murthy, Ex. Professor of NIT, Warangal, and Smt. Bharathi W/o.Nagaraja Kumar, Hyderabad. There was suppression of several facts regarding the bad habits and vices of A.1/the groom including he is addicted to smoking and drinking and irritable behaviour. Thereby she and her parents were cheated and deceived by suppressing the facts and without knowing her parents arranged the marriage that was later performed by meeting the demand of accused for Rs.25 lakhs, which is presented in the form of

gold and silver articles, and spent about Rs.12 lakhs for the marriage expenses. It is the second marriage for both of them and after marriage she joined her husband/A.1 at Bangalore and stayed for two weeks and after that A.1 left to USA and she stayed at the in-laws house with A.2 and A.3 for 1 ½ month at Bangalore, there she was harassed for un-satisfaction of the conducting of marriage and meeting of the expenses by not getting the expected articles further. In May 2006 she went to USA and joined her husband and after a period of one week there, he started harassing her for property and money whenever he received calls from his parents in this regard and started harassing even she was trying to convince him to lead happy life. She became pregnant in June 2006 and delivered a male child in February 2007 in USA. To her shocking, the harassment continued even thereafter and she was forced to consume alcohol by him and raising quarrels for refusal and even for petty things and from his failure of attempts to cause terminate her pregnancy, he used to trash her out of his bad temper and to bring money and property from her parents and to file case against her parents for money and property for partition and used to say on her father's death she could get property. He while at America, once abandoned her and the male child at the fourth month of the child at Colorado, USA, and went to Austin on the pretext of his job and in that period they were not even given basic allowances and amenities for three months for survival and she was on the mercy of neighbours for help to survive. On first birth day of

child performed at Banaglore, there she was beaten in front of her in-laws by her husband and even her in-laws/A.2 and A.3 supported A.1 in the attack and attitude of A.1 and they all threatened her for dire consequences including to do away unless she bring money and property from her parents and if she is choose to divorce they attacked on her, they took her jewellery. They returned back to America, where even he continued the harassment for property and money and used to video record of her cries from his beating and he is a man of suspicion and very nasty and used to block her cell phone and land line international outgoing and used to make her house arrest without connection to outside environment and used to abuse her in unparliamentarily words like Mala Munda and Madiga Munda and as if she is a prostitute and her parents house as if a brothel house. His bad behaviour no way changed despite her repeated requests and putting up and unable to bear the torture and with no option she called 911 emergency protection number of USA twice, where he threatened to kill her if she open her mouth in front of police and forced not to divulge the truth. At her second pregnancy in February, 2009 he trashed her to floor and threatened to terminate the pregnancy despite her pleading not to do so and her in-laws also forced her to undergo termination and he took her to the Planned Parenthood Hospital in Austin USA and cause terminated the pregnancy and she registered a similar opinion in the hospital records and from the forcible termination she suffered from fever due to fear of life threat and he

attempted to kill her and make her morbid by pouring hot coffee on her and he was demanded money and property from her parents and whenever she refused to ask, he was abandoning her and the child at America and was returning to India and after waiting for three days with the help of well wishers she came to India and went to her brother's house and after she landed in India, she lodged a complaint against him and in-laws on 07.03.2011 at Warangal, later at different occasions they called him for panchayats through caste elders and he refused to give any written assurance for her safety and of the child and also demanded Rs.1 crore from her parents, he used to say no one can touch him as his elder brother is a criminal lawyer in Bangalore with high influence and otherwise he is in USA and can manage with manipulation and he made calls to her and her father few weeks back and threatened to kidnap the child and kill her at any time as his brother is criminal lawyer and influential. Hence, to take action against her husband, parents-in-law, brother-in-law and brother-in-law's wife by showing as A.1 to A.5.

2. The police after investigating by showing five accused, by citing 13 witnesses including the Investigating Officers LWs.10 to 13, besides the *de facto* complainant LW.1, her father LW.2, her mother LW.3, her brother LW.4, her maternal uncle LW.5, her maternal uncle's wife LW.6 and other witnesses, no other than the friends of her father LWs.7 to 9, filed charge sheet, dated 29.05.2015, and the learned Magistrate has taken the case on file for the offences supra

against A.2 to A.5, while ordering NBW against A.1 in abscondance and summons to other accused on bail earlier. It is the same now sought for quashing.

3. The contentions in the quash petition are that but for marriage performed at Warangal and the couple lived for short time at the in-laws house at Bangalore after marriage, dated 17.11.2005 till he left USA two weeks later and what she stayed at the in-laws till she joined her husband in May 2006 at USA, the main acts of allegations are only in USA and attributing to the cruel conduct of her husband/A.1 for the harassment and ill-treatment and but for stray allegation of A.2 and A.3 supported A.1 and A.1 used to proclaim that A.4 brother of him is a influential criminal lawyer of Bangalore can manage things, there is no any cause of action for the learned Judicial First Class Magistrate, Warangal, to take cognizance of any of the offences from the investigation of the police locally and the proceedings are thereby liable to be quashed. It is also averred that the so-called forcible termination of pregnancy for the second time by A.1 of the *de facto* complainant in USA is a concocted story invented for foisting a false case and her report was dated 08.06.2012, to the Additional DG, CID, Hyderabad, whereas she came back to India on 07.03.2011 more than one year three months prior to that and kept quiet for such a long period without report. The *de facto* complainant filed O.P.No.246 of 2012 before the Family Court, Warangal, for restitution of conjugal rights, she refused to give custody of the child to A.1 and there were

exchange of notices in relation to the custody of the child and the criminal proceedings are belatedly and falsely foisted. A.4 is a practicing advocate and his wife A.5 of Bangalore and they never stayed together with *de facto* complainant and A.1 and even the residents of A.2 and A.3 is at Sajapura Road, Bangalore, whereas that of A.4 and A.5 is National Games Indore Stadium, Korumangla, Bangalore, and thereby sought for quashing the proceedings.

4. Learned counsel for the petitioners reiterated the same in the submissions in seeking to quash the proceedings. Whereas the learned counsel for the 2nd respondent- *de facto* complainant supported the registration of crime and police final report and the cognizance order of the learned Magistrate and sought for dismissal of the quash petition saying there is a prima facie accusation and no grounds to quash the petition.

5. Learned Public Prosecutor also supported the *de facto* complainant's submissions.

6. Heard both sides and perused the material on record.

7. The *de facto* complainant and her parents are residents of Hanamkonda of Warangal District of State of Telangana. A.2 to A.5 are residents of Bangalore, Karanataka State. A.1 is resident of USA, no other than the son of A.2 and A.3 and brother of A.4, wife of A.4 is A.5 and the *de facto* complainant is wife of A.1, at the cost of repetition. Even from the very report and investigation, the so-called

demands for dowry and giving of dowry prior to the marriage and at the marriage was dated 17.11.2005. It is there after according to the *de facto* complainant she joined her husband at Bangalore at the in-laws house and within two weeks thereafter her husband left to USA and she stayed at the in-laws house in between 17.11.2005 to May 2006 when she joined her husband in USA having left India. In their wedlock they blessed with a male child in USA in February 2007. According to her after joined her husband in USA in May 2006 even on confirmation of her pregnancy in June 2006 she was ill-treated by her husband with demands to bring additional dowry and to bring the property towards her share from her parents by using even abusive language to see that her father no more so that she could get the share in the properties of her father. All the acts taken place in USA. So far as against A.1 concerned for trial permission of Central Government is by way of sanction required under Section 188 Cr.P.C. as observed by the Apex Court in **Thota Venkateswarlu v. State of Andhra Pradesh**¹, including for any pre charge enquiry against A.1 against whom NBWs stated pending and that stage arises after his arrival and securing of presence. So far as A.2 to A.4 concerned, there is no bar and A.4 stated died. No proof filed. Practically there is no any worth allegation against A.4 and A.5. The proceedings in registration of the crime and taking of cognizance against them from any stray allegation no way survives to sustain. Hence, suffice to quash if at all he is alive

¹ (2011) 9 SCC 527

for no proof of death of him field and even his wife not party to the proceedings for the cognizance taken against them. Now so far as A.2 and A.3 concerned, the allegations are that at the time of her stay in Bangalore after marriage in November 2005 till she left India to join her husband in May 2006. It is seven years prior to her complaint to the police dated 08.06.2012, leave it as it is in Bangalore, not in Warangal. The subsequent allegations are they were supporting A.1 for his harassment and ill-treatment in USA. So far as those acts concerned, the allegations are as vague as anything with no any specific instances, but for against A.1 for any of the offences against A.2 and A.3. Having regard to the above, in the absence of specific allegations worth to take cognizance with specific instances to attract any of the offences under Sections 498-A, 313, 406 and 506 IPC and Sections 3 and 4 of the D.P.Act against A.2 to A.5 and so far as any dowry taken before marriage and any harassment during her stay prior to May 2006, for those offences not punishable above three years, the limitation is three years barred by time long back so far as against them.

8. Accordingly, the criminal petition is allowed and the proceedings against the petitioners/A.2 to A.4 including A.5 in C.C.No.354 of 2015 on the file of the I Additional Judicial First Class Magistrate, Warangal, are quashed and they are acquitted. The bail bonds of A.2 to A.5, if any, shall stand cancelled.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt:21 -01-2019

mar