

HONOURABLE Dr.JUSTICE B. SIVA SANKARA RAO

Criminal Petition No.4156 of 2018

ORDER:

The petitioner by name Vegi Satish, no other than brother of the husband of the defacto-complainant, is A.3 in C.C.No.142 of 2017 on the file of Addl.Judicial Magistrate of First Class, at Sathupally, Khammam district, outcome of Cr.No.74 of 2016 of V.M.Banjar Police Station, registered for the offences punishable u/ sec.498-AIPC and Sections 3 and 4 of the Dowry Prohibition Act(for short, 'the DP Act'), dt.08.06.2016 on the complaint of the defacto-complainant-Vegi Sheha against her husband by name Vegi Harikrishna(A.1),her mother-in-law-Vegi Vijaya Kumari(A.2) and her brother-in-law-Vegi Satish, the petitioner herein who is now residing at California State of America working as Software Engineer, and the police after investigation filed charge sheet by citing 9 witnesses including the L.Ws.8 and 9-the Investigating Officers, L.Ws.6 and 7-panch witnesses to the confession and disclosure statement of A.1, the L.W.1-defacto-complainant and L.W.2-father of the defacto-complainant, L.W.3-mother of the defacto-complainant, L.Ws. 4 and 5-panchayat elders belongs to Penuballi and Sathupalli Mandals and the learned Magistrate therefrom taken cognizance which is the impingement in the quash petition.

2. The contentions in the quash petition are that the allegations against the petitioner are vague, untrue, incorrect and no way makes out any sustainable accusation to implicate him for any of the offences and he has nothing to do with the matrimonial affairs of the defacto-complainant and the A.1 that too when the petitioner-A.3 is staying in USA and H1B visa holder since 2011 and visits India now and then on Company's work and stays mostly at Company's guest house and he is roped falsely to settle the matrimonial score between the defacto-complainant and her husband-A.1 and his mother-A.2 for extraneous reasons to bring them to terms and thereby the proceedings in the above Calander Case against the petitoenr/ A.3 are liable to be quashed.

3. The learned counsel for the petitioner reiterated the same. Notice sent to the defacto-complainant to the address furnished in the charge sheet thrice and

returned is sufficient service for no other address available including from the charge sheet.

4. Heard the learned counsel for the petitioner and the learned Public Prosecutor representing the State and taken as heard the defacto-complainant.

5. Before coming to the facts, it is necessary to discuss the settled legal position from catena of expressions of the Apex Court that the law is fairly settled in this regard from catena of expressions including of recent one of the Apex Court. The Apex Court in *K.Subba Rao v. State of Telangana*¹, observed that the couple married on 08.12.2008 and mostly resided in USA with marital discord there and the allegations against the relatives of the husband, who are the maternal uncles are simple of they were supporting her husband in his torturing her physically and mentally and the further allegation of they also conspired with her husband in kidnapping the child from her custody and took away to USA. It is observed that except bald statement they supported the husband of her from which they were harassing for dowry and conspired in taking away the child by her husband from her to USA. There is nothing to sustainable accusation for any of the penal offences for which crime registered including Sections 498-A, 120B, 420 and 365 IPC. It is by referring to the expression of the Apex Court in *State of Haryana v. Bhajan Lal*² is a ground to quash proceeding otherwise abuse of process of the Court from the guidelines therein observed that the Courts should be careful in proceeding against the distant relatives of the couple in crimes pertaining to matrimonial disputes and dowry deaths and it cannot be allowed to rope the relatives of the husband on the basis of omnibus allegations unless there are specific instances saying their involvement in the crime with prima facie accusation made out as observed in *Kans Raj v.State of Punjab*³ and *Kailash Chandra Agrawal v. State of Uttar Pradesh*⁴.

5-a. In *Neelu Chopra v. Bharti*⁵, the Apex Court categorically observed in quashing the proceedings against the family members of the husband in crime

¹ 2018 SCC Online SC 1080

² 1992 Supp (1) SCC 335

³ 2000(5) scc 207

⁴ 2014(16) SCC 551

⁵ 2009(10) SCC 184

registered under Sections 406, 498-A and 114 IPC that vague allegations in lodging a complaint no way survive to sustain and the instances relating to dowry demand and behaviour against husband and parents-in-law are even vague as to which accused committed what offence and with what exact role, though the allegations against the husband somewhat precise and thereby suffice in holding continuation of proceedings is an abuse of process against in-laws for no sustainable allegations.

5-b. Further, in *Varala Bharat Kumar v. State of Telangana*⁶, having found fault with the High Court in quashing proceedings within its inherent power, though to be exercised casually having no limitations for quashing, to sub-serve the ends of justice or to prevent abuse of process that where the proceedings are prima facie no way sustainable or otherwise mercilessly with ulterior motive to wreck vengeance, those can be quashed to sub-serve the ends of justice.

5-c. In *Bhaskar Lal Sharma v. Monica*⁷ also it is observed that the mere allegations of the mother-in-law(A2) poisoning the mind of husband of the de facto complainant(A1) in his harassing and in coercing to meet any unlawful demand for dowry, or for his willful conduct against her no way suffice to rope her and suffice to quash proceedings by referring to catena of expressions in this regard.

6. From the above legal position coming to the facts and sum and substance of the accusation from the charge sheet with reference to the First Information Report, dt.08.06.2016 and from the statements of the witnesses referred supra is that the marriage of defacto-complainant and the A.1 was performed at Surempalem, Krishna district on 15.08.2013 as per Hindu customs and at the time of marriage, her parents offered Rs.13lakhs and 30 sovereigns of gold as dowry and the matrimonial life went peacefully for some days and later her husband-A.1 and mother-in-law-A.2 harassed her mentally and physically including by abusing and insulting by saying a reason that the dowry presented and marriage performed is not to their status and frequently picking up quarrels and even beating her and she was even necked out from the house and constrained to go to their parents and therefrom to elders who conducted a panchayat in which on admonishing, the A.1

⁶ 2017(9) SCC 413

⁷ 2009(10) SCC 604

took her to marital home and in the panchayat, her parents even gave Rs.2 lakhs towards the demand for additional dowry and even after some days, the A.1 started harassing again with no change in his attitude and A.2 even made an attempt on her life. On arrival of A.3 from America, he also insulted her by provoking A.1 to send her out so that she can go to whomsoever to have any say and the same was placed before local elders, who admonished her husband-A.1. While so on Monday at 1.30P.M. when she was on bed, the A.1 and A.2 pressed her face by using pillow to murder which she foiled and came out and informed her parents and the A.1 brought her back within no time later and on 05.04.2016 night at about 5.30P.M., the A.1 in a drunken state attacked her and on seeking the incident, her mother intervened between them, but he beat her mother also by creating nuisance. The defacto-complainant in her statement so also the other witnesses insofar as the petitioner-A.3 concerned reiterated the same what all she averred in the FIR and her statement during investigation that at only one occasion the A.3 came to the family house of them where the A.2, A.1 and the defacto-complainant resides and instigated the A.1 and A.2 to send her out from the house so that she can complain to whomsoever she can.

7. Even taken as face value of said accusation, no offence is made out to rope her that too he is a resident of USA and there is no even date or time mentioned as to compare from his passport and visa permits as to know at that time whether he came to India to the family house where the A.1 and the A.2 resides. In the absence of which and with no investigation on that line, mechanically filing of charge sheet by police and taken cognizance by the learned Magistrate even against the petitioner/ A.3 is per se unsustainable.

8. Having regard to the above and with reference to the legal position discussed supra for no sustainable accusation against the petitioner/ A3, the continuation of proceedings against her for the offences taken cognizance is nothing but abuse of process.

9. In the result, the Criminal Petition is allowed quashing the proceedings against the petitioner-A.3 in C.C.No.142 of 2017 on the file of Addl.Judicial

Magistrate of First Class, at Sathupally, Khammam district, outcome of Cr.No.74 of 2016 of V.M.Banjar Police Station, registered for the offences punishable u/ sec.498-AIPC and Sections 3 and 4 of the Dowry Prohibition Act(for short, 'the DP Act'), and he is acquitted. His bail bonds shall stand cancelled. Pending miscellaneous petitions, if any, shall stand closed.

Date:18.03.2019.
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Dr. B.SIVA SANKARA RAO J,

