

Criminal Petition No.4508 of 2018

ORDER:

The petitioners 1 to 6 are A.1 to A.6 viz: husband(A.1), married sisters-in-law (A.2,A.5 and A.6) of the defacto-complainant, husband of A.2(A.4) and uncle of A.1 (A.5) in C.C.No.178 of 2016 on the file of the IX Metropolitan Magistrate, Kukatpally, Cyberabad, taken cognizance for the offences punishable u/ sec.498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act (for short, 'the DP Act'), which is outcome of Cr.No.749 of 2015,dt.09.11.2015 of Police Station Miyapur and the police after investigation filed charge sheet against six accused supra by citing 9 witnesses including 3 Investigating Officers as L.Ws. 7 to 9, defacto-complainant as L.W.1, her father, mother and two brothers as L.Ws. 2 to 5 and another witness as L.W.6 which the learned Magistrate took cognizance of the offences supra which is the impugment herein.

2. The contentions in the quash petition in seeking to quash the proceedings and cognizance order are that the petitioners are innocent and committed no offence and they are falsely implicated in the case by the defacto-complainant in order to extract money and the police without verification of the facts and jurisdictional aspects registered the crime mechanically and filed charge sheet without proper investigation and the cognizance order of the learned Magistrate is no way sustainable and there is no jurisdiction to the Magistrate supra for the entire cause of action took place in Mumbai. The defacto-complainant pressurized the A.1(husband) to live separately from his mother and there were quarrels in that issue from her threatening and quarrelsome behaviour and the A.1 filed complaints against her before police, Mumbai on 13.03.2014 and 05.04.2014 and father of A.1 also made a complaint against her before Dadur on 26.04.2014 as she was not allowing him to stay with the A.1 and when the defacto-complainant did not mend her behaviour, the A.1 filed divorce petition on the ground of cruelty in O.A.No.1870 of 2015 before Family Court at Bandra, Mumbai narrating how he suffered in the hands of the defacto-complainant and as counterblast to the police report in registration of the crime the defacto-

complainant implicated them on the false and baseless allegations and the investigation is also baseless and thereby sought for quashing of the proceedings.

3. The defacto-complainant to whom notice sent to the address furnished in the charge sheet from unserved as left is sufficient service for no other address from the charge sheet and the FIR and thereby taken as heard and heard the learned counsel for the petitioner and the learned Public Prosecutor representing the State and perused the material on record.

4. 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

¹ 2018 SCC Online SC 1080

² 1992 Supp (1) SCC 335

accusation made out as observed in *Kans Raj v. State of Punjab*³ and *Kailash Chandra Agrawal v. State of Uttar Pradesh*⁴.

4-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 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.

4-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.

4-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.

5. From the above coming to the facts, the marriage of defacto-complainant with the A.1 was performed on 15.05.2010 at Dharamdhari village, Rajasthan State as per Hindu rites and customs. The A.1 is the only son to his parents with 7 sisters and the defacto-complainant joined his company at the matrimonial home at Room No.E7, 5th floor, Harmesh Apartment near Poesar Bus Depot, Borivali (West), Mumbai where the A.1, his mother and unmarried sister-A.6 were only residing. After marriage, nearly two months after she was made to

³ 2000(5) SCC 207

⁴ 2014(16) SCC 551

⁵ 2009(10) SCC 184

⁶ 2017(9) SCC 413

⁷ 2009(10) SCC 604

attend the entire household work and to serve the ailing mother-in-law who is a cancer patient but prior to her marriage which fact was suppressed and she was not even allowed to speak with neighbours and the A.1 and other accused were behaved adamantly and the A.1 was manhandled her and other accused were supporting him and the mental torture was increasing day-by-day including additional dowry demand of Rs.2lakhs for the treatment of her mother-in-law. Though it is stated before the marriage that the A.1 is a business partner with A.3 and A.4 in the business, they stated that he is not at all a partner and she was deceived in performance of marriage by cheating and breach of trust. It is averred that at the time of her marriage her parents gave Rs.5,77,000/- as dowry in the form of cash which was secretly taken by A.1 so also her 400grams of gold ornaments, 3.5kg silver, Hero Honda Bike, LCD Television, Sofa set, Refrigerator, cooler, Washing machine and other household articles besides that sari samans which are in the custody of A.1 and A.2 without giving her any access to said articles and as the pressure on her with a demand to get amount from her parents for treatment of A.2, she requested her parents to send some amount, then her brother Sawai Singh came to Mumbai and gave Rs.50,000/- to A.1 in the month of September, 2010. In the month of March, 2011, she was conceived but neither the A.1 nor his family members(other accused herein) attended for medical treatment but for her parents at their costs. The above act of the accused persons made her to suffer mental agony and give birth to a premature female baby in the month of August, 2011. The A.1 due to various addictions like alcohol, going to pubs and dance clubs etc., never bothered even to provide medical treatment for the pre-matured baby and when suggested for the ventilator to be applied for the baby, the A.1 said that he has no money and asked to drop ventilator and on removing ventilator the baby expired on 07.08.2011 and she was treated as maid servant in the family by confined to kitchen and other household work and to attend the services to her ailing mother-in-law till her death on 07.11.2011. The A.1 became more reckless and addicted to bad vices and not even coming to home for days together and was manhandled and ill-treated so also made her to spend lonely in the nights at home and A.6 who was unmarried sister of the A.1 used to stay there

and dominating her and used to say the A.1 married her only to do service to her mother and to get money to settle in the life as he is unemployed. After the delivery and death of the premature baby, she came to her parents house at Hyderabad for taking rest, but immediately after 20 days, the A.1 came to Hyderabad and forcibly took her away with an intention to serve his mother, however, after going to Mumbai, his mother and A.6 shouted and scolded for her staying at her parents house leaving his mother suffering from Cancer. In the month of June, 2012, the marriage of A.6 was performed and the same was suppressed from the complainant but they stated that if money for the marriage of A.6 falls short, her jewellery will be sold away and as they said, they sold away part of her ornaments and performed the marriage of A.6, however, she did not raise any objection hoping that at least in future she can live happily with A.1 but even after the marriage of A.6, they all very frequently used to demand money of Rs.5lakhs to start business by A.1 as he is unemployed and all are asking her to act as per the dictates of A.2. Unable to bear with the mental and physical torture and ill-treatment, the complainant out of disgust made attempt to commit suicide by hanging on 31.07.2012 at about midnight however the neighbours rescued her and the matter went to the knowledge of Kandival West Police who warned all the accused to treat her well and closed the matter. After that the parents of the complainant sent maternal uncles of the complainant namely Ramsinghji and Sohan Singhji to Mumbai who enquired about the incident on 30.07.2012 and knew that the A.1 badly run into debts and informed the same to her parents. Then her parents arranged Rs.5lakhs through Lakshmansingh ji and Dinesh Singh ji that was taken by the A.1 and A.2 in the presence of A.4 and even thereafter there was no change in the vices of A.1 who became spendthrift with that amount and for her questioning, he threatened and ill-treated her including to go for another marriage and that he is not interested in her but for sake of money and to serve his ailing mother he married her, that in spite of their cordial invitation to all the parties, including the A.1, he did not attend her brother's marriage held on 08.05.2014 and when questioned, the A.1 recklessly answered that herself and her family members are not suitable and not having social status compared to them and the

complainant when pleaded the A.1 at least to come to Rajasthan to bless the new couple and take her to matrimonial house at Mumbai, he said that he shifted all the household articles and residence to their home town, a remote village called "Barwa" in Rajasthan State and told her to come there and said that that will be their destination from then onwards. Though the complainant, having been lived in metropolitan cities like Hyderabad and Mumbai, felt very difficult to go to that remote village and lead the matrimonial life, being the lady of Indian customs and traditions having respect to the word of her husband, went to Barwa in Rajasthan State. The father of the complainant and her brother accompanied her and left her at Barwa village and gave an amount of Rs.50,000/- towards expenses, however, on the day one, the A.1 did not come to home and the complainant with great agony slept alone and when enquired in the morning, she came to know that he slept in his Step father's house. Even during the stay at Barwa village, the A.1 never took care of her. She also looked after her father-in-law aged about 80yrs who came to Barwa but the A.1 never cared but used to come home late nights leaving home without informing for days together and without communication. Hence to take action.

6. Even from the said allegations the main allegations are against her mother-in-law and husband-A.1 and what stated of A.3-Vijay Singh and A.4-uncle of A.1 allegedly stated to be partners in business with A.1 before marriage and later stated that A.1 is not a partner with them. There is nothing even in writing in this regard to show that the A.1 was originally partner and he was made to resign or sent out from any business to give any credence to that or to sustain any allegation against them. Insofar as the other accused concerned, so far as the A.6, he is originally staying being spinster after marriage joined her husband and the address of A.6 is in Pune and not in Kandiveli (West), Mumbai where the defacto-complainant with A.1 along with her mother-in-law and the A.6 prior to Marriage of A.6 were staying though address of A.3 and A.4 is also at Kandiveli(West) Mumbai area of whom A.2 is wife of A.3 and A.5 is wife of one Madan Singh. Thus even from their stay at Kandiveli (West), the allegations are very vague

unsustainable, timeless without any specific incidents as to place, date, and time for knowing of any of their acts happened even within Mumbai for jurisdictional aspect to rope them is unsustainable but for so far as the against the A.1-husband of the defacto-complainant.

7. Having regard to the above, the allegations against the A.2 to A.5 except A.1 are unsustainable without any proof to give credence.

8. In the result, the Criminal Petition is while dismissing against the petitioner No.1/ A.1, allowed quashing the proceedings against the petitioners 2 to 6/ A.2 to A.6 in C.C.No.178 of 2016 on the file of the IX Metropolitan Magistrate, Kukatpally, Cyberabad, and they are acquitted. Their 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,

