HONOURABLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.12897 of 2014

ORDER:

The petitioners are accused Nos.2 & 3 in C.C.No.465 of 2009, on the file of the learned Judicial Magistrate of First Class, Godavari Khani, outcome of Crime No.345 of 2006, dated 10.10.2006, of Godavari Khani I Town Police Station, Karimnagar District, registered for the offences punishable under Section 498-A of Indian Penal Code, 1860 (for short, 'IPC'), and Sections 3 and 4 of the Dowry Prohibition Act (for short, 'the D.P. Act'), on the report of the *de facto* complainant/2nd respondent. The petitioners/A-2 & A-3 are no other than mother-in-law and sister-in-law of the *de facto* complainant. The petitioners are seeking to quash the above CC proceedings.

2. The contents of the report of 2nd respondent/*de facto* complainant, dated 10.09.2006, addressed to the Hon'ble Chief Minister of Andhra Pradesh by then and by marking copy to the Hon'ble Home Minister of the Andhra Pradesh State by then and from the endorsement of the Hon'ble Home Minister to the Police by then in registration of said Crime No.345 of 2006 by Godavari Khani I Town Police Station, Karimnagar District, on 10.10.2006, for the offences punishable under Section 498-A IPC and Sections 3 and 4 of the D.P. Act, are that her marriage with A-1 was performed on 26.06.2002 at Imperial Gardens, Sikh Village, Hyderabad, and at the time of marriage, her father has given Rs.20,00,000/- cash, gold and silver jewellery worth Rs.15,00,000/- and other items of Rs.2,00,000/- as per the demand of the accused and after marriage, she resided with her

husband for 10 days at her in-laws' house and during that period, her mother-in-law and sister-in-law, the petitioners herein, insulted her with sharp words criticizing her dressing and used to force her to consume birth control pills everyday and when she questioned about that they convinced her saying she was newly married. After about ten days, she accompanied her husband to Atlanta, America and at America, her husband behaved normally with her and thereafter, her mother-in-law and sister-in-law used to make phone calls and talk to her husband for long time and used to influence her husband saying bad against her and used to instruct him and manage him not to lead matrimonial life with her. Whenever they make phone call to her husband, he used to demand her saying that she should bring another Rs.10,00,000/- from her father towards additional dowry, otherwise he will give divorce to her and used to threaten her. Even the petitioners herein used to subject her to severe torture and mental agony saying why won't she bring another Rs.10,00,000/- and abusing in filthy language and her husband used to direct her saying she should act according to his sister and should not do anything on her own accord and she kept patience that he would change his attitude. Thereafter during the month of November, 2002, she and her husband returned to Hyderabad and after reaching Hyderabad, her mother-in-law and sister-in-law started abusing her directly and asking her as to why she was not bringing another amount of Rs.10,00,000/- as additional dowry from her parents and when she asked them to send her to her parents' house, they put her in a room and locked from outside and taken her cell phone also. Thereafter she informed about this to her father over phone and her father came to Hyderabad and took her to Godavari Khani. After few days, without information to her, her husband proceeded to America and when she went to her in-laws' house, her mother-in-law and sister-in-law not allowed her into the house saying false to her that her husband went to Bangalore and necked her out saying that they will allow her only if she bring Rs.10,00,000/- amount as additional dowry. Thereafter, twice or thrice, they arranged talks with elders viz., J.Ramchander Rao, N.Prabhakar Rao, A.Rajeswar Rao and M.Bhaskar Rao etc., with the petitioners herein and said elders gathered information from her and petitioners herein and tried to convince them not to behave with the complainant in such a manner and scolded them to convince their son to ensure happy matrimonial life with her, but they paid deaf ear. After waiting for sometime, with a strong intention to reach her husband, she proceeded to America to meet her husband during March, 2004, and when she approached him at America, he too necked her out of the house saying there is no necessity for him to remain with her and she took shelter at her relatives at America and doing some job there and tried number of times to contact her husband, but he simply ignored her and having no other alternative, she returned to India. Thereafter, she came to know that her husband filed petition before the Court of law at America and obtained divorce decree without information to her during the month of July, 2004, on the pretext that she was keeping herself away from him disallowing him to lead matrimonial life and he had even misguided the Court that he had sent notice to her. Even though her father tried his level best through the mediation of elders, there was no change in the attitude of the accused, hence to take action.

3. The Police after investigation filed charge sheet, dated 10.06.2009, by citing eleven witnesses including L.Ws.10 & 11-Investigating Officers besides the complainant (victim)-L.W.1, her father-L.W.2, mother-L.W.3, brother-L.W.4, so-called caste elders-L.Ws.5, 6 & 7 and so-called circumstantial witnesses-L.Ws.8 & 9. The learned Magistrate therefrom taken cognizance against the accused persons for the offences punishable under Section 498-A IPC and Section 4 of D.P. Act, which is the subject matter of impediment herein.

4. The contentions vis-à-vis oral submissions of the learned counsel for the petitioners/A-2 & A-3 that even if the entire allegations are taken into consideration, it will not make out any offence much less an offence under Section 498-A IPC and the marriage of A-3 was performed much prior to the marriage of *de facto* complainant, as such the question of her harassing the *de facto* complainant does not arise. It is contended that the allegations whatsoever levelled against the petitioners are somewhere in November, 2003, whereas the complaint was filed in 2006 and the charge sheet was filed in 2009, therefore the charge sheet filed by the police for the offences supra is barred by limitation under Section 468 Cr.P.C. It is also contended that A-1 (husband of the *de facto* complainant) filed petition for judicial separation against her in O.P.No.800 of 2003 and she appeared before the Family Court, Hyderabad, and also filed her detailed counter, however, in said counter she did not make any allegations

neither against the petitioners herein nor against her husband. However, O.P. was dismissed on 28.05.2005 as the husband of the *de facto* complainant (A-1) filed an affidavit stating that 'Tulton country superior court, Georgia, USA' *vide* civil action file No.2004 CU 83782, dated 29.03.2004, granting divorce on 06.07.2004 and he also filed copy of the final judgment and decree along with the affidavit. It is further contended that the *de facto* complainant kept quiet till September, 2006, and lodged the complaint falsely implicating the petitioners herein and her husband and sought for quashing the proceedings by allowing the quash petition.

5. The learned Public Prosecutor submits that there is nothing to interfere with the cognizance order taken by the learned Magistrate and sought for dismissal of the quash petition.

6. The notice sent to the 2nd respondent/*de facto* complainant returned as left is a sufficient service, hence taken as heard the *de facto* complainant and heard learned counsel for the petitioners and learned Public Prosecutor representing the 1st respondent State and perused the entire material on record.

7. According to the 2nd respondent/*de facto* complainant, after the marriage, the couple resided 10 days along with petitioners/A-2 & A-3 at Hyderabad in the year 2006, June/July from the marriage, dated 26.06.2002, and the mother-in-law and sister-in-law used to address in sharp words or forcing her to consume birth control pills daily and when she questioned, they given their own reason of, it is because they are newly married and she is convinced. Therefrom there is no offence under Section 498-A IPC or Section 4 of D.P. Act made out from that allegation. Coming to

the further facts, after 10 days of marriage, she left with her husband to Atlanta, America. What she alleged is in America, the couple were happy. However, whenever there were phone calls from petitioners/A-2 & A-3, her husband was started demanding to bring additional dowry of Rs.10,00,000/- or harassing. She did not even mention any date or time or any specific instance, but for the general vague allegation. Sofar as the specific allegation, if at all against the petitioners, mother-in-law and sister-in-law of the *de facto* complainant concerned, what she stated is during November, 2002, the couple having left in July, 2002, to America, came to Hyderabad where the mother-in-law and sister-in-law started abusing by demanding to bring additional dowry of Rs.10,00,000/- and when she asked to send her to her parents to bring, all the accused did not allow and kept in a room and locked from outside and snatched her cell phone. At other breath, her version that having taken her own time, she informed the same to her father over phone and her father came to Hyderabad and taken her to Godavari Khani. She did not choose to give any police report at Hyderabad for the alleged occurrence at Hyderabad and nothing at Godavari Khani, even for the police at Godavari Khani to register the crime therefrom. What she stated is her husband without information left to America and even when she went to the in-laws' house i.e., of petitioners, they pretended as if went to Bangalore and they did not allow her to stay with them. It is she that married A-1 and the question of her staying unless allowed with A-2 & A-3, the mother-in-law and sister-in-law does not arise, much less to say the same constitute any offence punishable under Section 498-A IPC. What is further stated is disputes raised thrice through elders to convince to join her husband failed, her husband, according to her, at America and if at all to convince or to join her husband at America and raising a dispute if at all even taken true with the petitioners will yield no fruit and even their no response or any adamant response will not make them liable for the offence under Section 498-A IPC and Section 4 of D.P. Act, leave about the fact that there is no meaning in her waiting all through till 2006 October, in directly giving a complaint to the Hon'ble Home Minister or Hon'ble Chief Minister without even approaching the police, much less by private complaint, that too in saying when she went to America in March, 2004, to join her husband, he did not allow her. She suppressed the factum of her husband filed O.P.No.800 of 2003 itself in the Family Court, Hyderabad, against her for judicial separation and subsequently, he not pressed, that was dismissed to knowledge on 28.06.2005 from his say of he already filed and obtained divorce from 'Tulton country superior Court, Gerogia, USA' on 29.03.2004 itself. Even then she did not choose to report to police against her husband till the said compliant given to the Hon'ble Home Minister in October, 2006 supra. It clearly shows the petitioners are roped with no basis for reasons better known to the *de facto* complainant and without any sustainable accusation. Unless there are specific allegations in the FIR or private complaint or investigation material, the question of taking cognizance against the family members of the husband of the *de facto* complainant for the offences under Section 498-A IPC or Sections 3 & 4 of D.P. Act does not arise and even a stray sentence of suffered harassment in the hands of the in-laws or other family members of husband not sufficient to sustain any accusation or cognizance therefrom and if allegations not made out, continuation of proceedings is nothing but abuse of process.

8. Having regard to the above and to sub-serve the ends of justice, the proceedings sofar as against the petitioners/A-2 & A-3 cannot be allowed to be continued.

9. Accordingly and in the result, the Criminal Petition is allowed by quashing the proceedings sofar as against the petitioners/A-2 & A-3 in C.C.No.465 of 2009, on the file of the learned Judicial Magistrate of First Class, Godavari Khani.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 08.04.2019

KL/ska

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