

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.6333 of 2017

ORDER :

The petitioners are the defacto-complainant's brother-in-law-A.2, father-in-law-A.3 and two sisters-in-law-A.4 and A.5 among 5 accused including her husband-A.1 in C.C.No.53 of 2010 on the file of the XIII Addl.Chief Metropolitan Magistrate at Hyderabad, outcome of Cr.No.334 of 2008, dt.26.09.2008 of Gandhi Nagar Police Station, registered for the offences punishable u/ sec.498-A and 506 IPC and Sec.3 and 4 of the Dowry Prohibition Act (for short, 'the DP Act') on her report.

2. The contents of the report of 2nd respondent-defacto-complainant of Kavadiguda area, in registration of crime supra are that her love marriage with A.1-N.Srinu was performed on 25.04.2008 in the presence of their friends at Aryasamaz, that after marriage, A.1 used to return home in late nights in a drunken state and abuse and beat her and on one day midnight as usual he beat and necked her out from the house. Then the defacto-complainant informed the same to her mother over phone and went to her mother, who persuaded her to go to her husband(A.1) and she went to her husband's house and found him in abscondence since two months and therefrom to the in-laws house where all the accused 2 to 5 harassed her many a time with a demand to bring additional dowry of Rs.2lakhs from her mother otherwise she would not be allowed to stay with them, later the A.1 came back and started to propagate badly against her character as if she is having illegal relationship with his friends and once he caught hold of her hands and her sisters-in-law beat her and they all necked her out and in that issue, a case was registered in Musheerabad Police Station where her husband assured in writing to look after her well. Her one of sisters-in-law's

husband Pankaj also tried to kill her by pressing her neck. Hence to take action.

3. The police after investigation filed chargesheet and during investigation, examined L.Ws.1 to 4 viz: the defacto-complainant, her mother K.Laxmi-L.W.2, her brother K.Raju-L.W.3 and L.W.4 G.V.V.Satyanarayana. The chargesheet further speaks that during course of investigation on 15.09.2009 L.W.1-defacto-complainant and her mother came to police station and informed that herself and A.1 compromised for time being in the presence of elders and are residing separately but A.1 not changed his attitude since one year and harassing her mentally and physically and threatening with dire consequences. A.1 was later approached near at Swamy Dayanand School, Amberpet, Hyderabad, where he made a voluntary disclosures of the commission of the offence supra was taken to judicial custody and A.2 to A.4 were released on furnishing sureties as per Court orders. The investigation stated reveals all the accused persons harassed her physically and mentally with a demand of additional dowry by threatened with dire consequences despite they compromised in the presence of elders, A.1 did not change his attitude but continued harassing her.

4 Impugning the said Calander Case proceedings, the petitioners filed the present petition with contentions that the allegations are as vague as anything without any specific allegations as to when and where she meted out harassment in the hands of the petitioners and the allegations are false and baseless, that the defacto-complainant unnecessarily implicated the petitioners herein who have nothing to do with the matrimonial affairs of A.1 and defacto-complainant, that police did not properly investigate the case and hence to quash the proceedings in the Calander Case supra.

5. Heard the learned counsel for the petitioners and the learned Public Prosecutor for the 1st respondent-State and taken as heard the defacto-complainant from notice sent to her to the address furnished in the chargesheet returned with endorsement of address not known is a sufficient service and perused the material on record.

6. The Apex Court in Neelu Chopra Vs. Bharati¹, Kailash Chandra Agarwal Vs. State of UP², Kansraj Vs. State of Punjab³ and Geeta Mehrotra Vs. State of Uttar Pradesh⁴, and Manoj Mahavirprasad Khaiton Vs. Ram Gopal Poddar⁵ categorically held that unless there are specific allegations in the complaint against other relatives of husband, no cognizance can be taken against the family members, more particularly from the tendency of making baseless allegations in roping them. Even a stray sentence as suffered harassment in the house of in-laws not sufficient as held by this Court while quashing from such a bald statement in Shhaik Kusrouddin Vs. State of A.P.⁶ against the in-laws and other relatives of the husband. It is also held by the latest expression of the Apex Court in Taramanio Parakh Vs. State of M.P.⁷ that if the allegations not make out a case, it can be held as abuse of process to continue the crime proceedings. It is further held that in matrimonial cases, Courts have to be cautious when omnibus allegations are made particularly against relatives of husband. Coming to the family members of the husband who are the petitioners-A.2 to A.5 no any specific overt acts with date, time, and place to attribute any specific role against any of them, no ingredients of the offences alleged supra that apply.

¹ 2010(1)ALT(CrI) 146 SC,

² 2015(1) ALT(CrI)229(SC),

³ 2000(5) SCC 30

⁴ 2012 10 SCC 741

⁵ 2010(10) SCC 673

⁶ (2004) 2 ALD CrI. 195

⁷ 2015(2) ALT(CrI) 336 SC

7. Having regard to the above and in the result, the Criminal Petition is allowed quashing the proceedings against the A.2 to A.5 in C.C.No.53 of 2010 on the file of the XIII Addl.Chief Metropolitan Magistrate at Hyderabad, outcome of Cr.No.334 of 2008, dt.26.09.2008 of Gandhi Nagar Police Station. The petitioners are acquitted and their bail bonds shall stand cancelled. Consequently, pending miscellaneous petitions, if any shall stand closed.

Dr. B.SIVA SANKARA RAO J,

Date:18.03.2019
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