

HONOURABLE Dr.JUSTICE B. SIVA SANKARA RAO

Criminal Petition No.622 of 2017

ORDER:

The petitioners 1 to 4 are A.2 to A.5 among 6 accused viz: M.Pushpalatha-mother, M.Jagath Reddy-father, M.Raghavender Reddy-brother and P.Swapna-sister of A.1 who is husband of defacto-complainant-M.Archana (A.6-PNarasimha Reddy, husband of A.5 shown in the chargesheet as suspected) in C.C.No.358 of 2016 on the file of XIV Metropolitan Magistrate, Cyberabad at L.B.Nagar, Hyderabad outcome of Cr.No.115 of 2016 on the file of Women Police Station, Saroor Nagar, dt.27.05.2016 registered for the offences punishable u/ sec. 498-A and 506 IPC and Sections 3 and 4 of the Dowry Prohibition Act(for short, 'the DP Act'), on the report of the defacto-complainant/ wife of A.1.

2. The averments of the report of the 2nd respondent/ defacto-complainant by name Archana in registration of the crime are that she is resident of Plot No.39 & 40, Dwaraka Nilayam, Dwarakanagar, Hasthinapuram and her marriage was performed with A.1-M.V.P.Narayan Reddy on 20.01.2011 as per Hindu rites and customs and at the time of marriage her parents paid Rs.40 lakhs including 10 lakhs as dowry, 40 tulas of gold, adapadachu katnam and 3 lakhs worth plot at Abberpet, and within 15 days from the marriage, she was taken to hospital and given tablets forcibly, to resist pregnancy saying they do not want children and further said that only on the force of his parents, he married her and caused her mental agony and just 3 months after the marriage, her husband-A.1 removed her tali and thrown out from the house during night. Six months thereafter, they went to America where she conceived and while she was carrying 5th month and it was found a baby girl through scanning, they sent her to India from America. After 21 days of her delivery, no one went to see her child and on barasala occasion, though her husband-A.1 came but without informing her he left from there and when she questioned the same, he abused her filthy and further said her father not arranged any party and further said she should come to in-laws house, only with registration of plot and since then in spite of her several requests, he did not talk with her even on phone. However, she managed to get visa to her who is 11th

month child and went to USA where one day while she was feeding her child, the A.1 took the child and kicked her on her chest. Then she came back to India to her in-laws house where all the petitioners threatened her with dire consequences including to kill her. Hence to take action.

3. The police after registering the complaint as the crime supra, during investigation, examined L.Ws.1 to 12 viz: L.W.1-the defacto-complainant, her mother as L.W.2, the baby of the defacto-complainant aged 3½ years as L.W.3, her father as L.W.4, paternal uncle as L.W.5, maternal uncle as L.W.6, circumstantial witnesses as L.W.7 to 10 and Inspector of Police as L.W.11 and S.I. of Police as L.W.12 and after completion of investigation, filed chargesheet. So far as involvement of the A.6 not established, the same was informed to the defacto-complainant through 173(2)(ii) CrPC notice which she acknowledged. L.W.12 issued notices u/ sec.41(A) CrPC to A.2 to A.5 and received responses and making efforts to trace A.1. In the chargesheet, besides the above facts, it further discloses that the A.1 used to beat her frequently and forcibly made her to consume sleeping pills and sent her to India where she stayed with her parents. A.1 purchased a flat to which place the petitioners used to come and harass her due to which she went to her parents house. Then A.2 to A.4 locked the flat and when she questioned the same, the A.2 to A.5 abused and beat her and A.4 beat her daughter and threatened to kill her. Then her father and uncle came there and took away her to their house. A.1 did not pay loan instalments and when asked, he did not respond even to bank authorities. On 02.04.2016 a panchayat was held at Eedulakanti Ramreddy Gardens, Sagar Ring Road in which her parents, maternal uncles Krishna Reddy, Panduranga Reddy, Srinivas Reddy, the marriage mediator Yadagiri Reddy, elder person Janga Reddy, Sudhakar Reddy, K.Narsimha Reddy, elder paternal uncle Pratap Reddy, younger paternal uncle Sathi Reddy attended on her side and her-in-laws, younger brother-in-law, sister-in-law, her husband, maternal uncle of her husband and others were attended on his side and Amrutha Reddy and Sudhakar Reddy attended as the mediators for both the sides, wherein, A.1 refused to take her and A.3 supported him and talked awkwardly and when she begged them A.3 gave one month time to think and lodged a complaint at P.S. L.B.Nagar,

stating that there is life threat to him by L.W.1 and even earlier panchaayts were also not fruitful. Showing the A.1 in abscondence, sought the Court to issue summons to A.2 to A.5 the petitioners herein.

4. The contentions in the quash petition are that the police examined the L.Ws.1 to 12 supra and filed chargesheet without recording the statements of the petitioners/ A.2 to A.5 or any of the accused. In the chargesheet the police, even without issuing any notices to the petitioners, recorded that Section 41-A CrPC notices were issued. The allegation of the petitioners, after the defacto-complainant coming back to India to Hyderabad, harassed and threatened her is false and without basis and the other allegations of the A.1 purchased a flat and fallen default of the installments is false. The allegation that the petitioners kept her in the flat and locked is also false and without basis. The 3rd petitioner/ A.4 gave a complaint stating that there is threat to his life from the defacto-complainant. The police conducted only table investigation and filed chargesheet. Hence to quash the proceedings in the Calander Case supra against them.

5. Heard both sides 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 Utter 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

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

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 and 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.

7. From the above legal position coming back to the facts to the extent further necessary to mention, the statement of L.W.1-defacto-complainant is nothing but reiteration of what she stated in her report. The marriage was performed on 20.02.2011 in Eedulakanti Ramreddy Gardens, Sagar Ring Road, Ranga Reddy district. So far as the allegations of within 15 days after her marriage, her husband expressed of immediately no children are required and her sister-in-law (sister of A.1 by name Swapna) taken to Sastra hospital, Dilsukhnagar and cause examined her or any tablets administered by force are concerned, it is first time whisper in 2016 in registration of the crime and the same cannot be given much credence in the absence of at least any medical record. The other allegations against the A.1 of questioning her as if she is barren or no possibility to be blessed with children or he was forced to marry her though unwilling and harassing her with that cause and also by saying what she brought towards dowry is very low and he is not liking her and asked to go to her parents or of his any further harassment are concerned, it is stated that in August, 2011 she got visa and both the couple went to America where they stayed and when she was 5th month pregnant, on scanning, it was found that she was going to beget a female child and on that he sent her to India if at all by pressure and she gave birth to female child-L.W.3 on 20.08.2012 shown 3½ years in the course of examination during investigation. The other allegation is her husband did not come even to see the child and did not incur delivery expenses and even came for barasala function and left without informing her and after he left, when she questioned he showed a cause of her father did not arrange wine party or he asked her to come only after registration of the plot in her name and/or abused by saying to bring share in the property of her father and even made her father spent huge amount for barasala

function of her daughter and he was not even responded to phone calls and about Panchayat later held. The other allegation that on the day when they are leaving to America by getting visa to herself including to her child, Pushpalatha-her mother-in-law, P.Swapna-her sister-in-law and M.Raghavender-her brother-in-law came to see her child and when asked to come to the upstairs, they did not come or her brother-in-law-Raghavender questioned her saying why she wanted to make her husband to roam around her or Swapna-her sister-in-law stated she can separate her from A.1, are concerned, this was even happened before her leaving to USA on 20.07.2013 and the report is in 2016 about three years later. The further allegations against her husband that while they were staying at USA. Ultimately in saying her husband forcibly sent her to India and she stayed with her parents for some time and later came to Dwarakanagar flat purchased by her husband where mother-in-law, father-in-law and brother-in-law who were also staying there harassed her and even husband of sister-in-law also harassed her. What she stated is when she went to her parents house, the flat was locked by the above persons and when she went to the house of her sister-in-law-Swapna and asked for the key of the flat they did not give to her and all abused her and Raghavender tried to beat her or tried to beat the child of her or threatened and she entered into the flat by cause opened the door by the assistance of her father and maternal uncle are concerned, even to believe these allegations, for the same she did not mention any date or time or year and as to why she even chose to report against them. She further stated subsequently the A.1 fell default in paying EMI amount for the flat and even not lifting phone or when a dispute raised through elders they are adamant and left from the Panchayat.

8. All the above allegations are as vague as anything for not even a case of any of them demanded any additional dowry or ill-treated with any specific instances but as per the legal position supra, they are roped along with her husband. Even the statements of other witnesses from close perusal no way mentioned any specific instances against any of the accused persons among A.2 to A.5-the quash petitioners.

9. Having regard to the above and in the result, the Criminal Petition is allowed by quashing the proceedings in C.C.No.358 of 2016 on the file of XIV Metropolitan Magistrate, Cyberabad at L.B.Nagar, Hyderabad against the petitioners/ A.2 to A.5 and they are acquitted. Their bail bonds shall stand cancelled. Consequently, pending miscellaneous petitions, shall stand closed.

Dr. B.SIVA SANKARA RAO J,

Date:28.03.2018
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