

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.8290 of 2014

ORDER :

The petitioners are accused 1 to 4 in CC.No.292 of 2012, on the file of the learned VIII Metropolitan Magistrate at Rajendranagar, taken cognizance of the offences punishable under Section 498-A IPC and Sections 3 & 4 of the Dowry Prohibition Act, which is outcome of the private complaint dated 13.07.2011 of the 2nd respondent/*de facto* complainant, no other than wife of A1 and daughter-in-law of A2, A3-sister in law of A1 and A4-brother of A1, that was referred to SHO, Rajendranagar, by the learned Magistrate supra under Section 156(3) Cr.P.C. for registration of crime and investigation from which the police registered Cr.No.627 of 2011 on 28.07.2011 and after investigation by examination of seven witnesses among the nine witnesses by the LWs 8 & 9- the Investigating Officer who issued FIR and filed charge sheet viz., LW1-complainant/victim, LW2-Father of LW1, LW3 –Mother of LW1 respectively and LWs 4 to 7 shown as circumstantial witnesses. The final report filed on 30.01.2012 for the offences supra and the learned Magistrate there from taken cognizance for the offences supra against the accused supra in impugning the same.

2. The contentions in the quash petition in nut-shell while admitting the relationship of the parties pursuant to the marriage between the *de facto* complainant and 1st petitioner/A1 dated 27.08.2010 at M.S.Reddy Garden Function Hall beside outer ring road, Shamshabad, Hyderabad, as per Hindu Rites and Customs that the allegations about giving of gold ornaments of 20 tolas and household articles and the marriage performed in a grand manner by meeting the so called demands of the accused persons are only after marriage for three months, the life

went happy between the couple or accused persons, there from started harassing including for additional dowry of Rs.10 lakhs and flat in Apartment and by saying what the dowry provided is a pittance and too low and with other match they could get more, are untrue. It is further contended that the private complaint averments are created to maintain false case and by false implication, besides the husband, the family members also, in order to harass them. It is stated that after marriage, the 2nd respondent/*de facto* complainant stayed with 1st petitioner /accused no.1 for three months where she used to visit frequently her parents at Hyderabad from Heerbidenour of Karnataka State and she left the matrimonial home on 23.03.2011 when her father came for reasons better known and later did not join him and she is working at Hyderabad and getting hand-some salary and claims she was born and brought up at Hyderabad from childhood and not in a position to adjust at Heerbidenour village which is 60 kms. away to Bangalore and unable to adjust there and as her insistence to A1 to come over to Hyderabad, not heeded, thought of false implication by filing a false case with the private complaint.

3. It is further averred that D.V.C.NO.13 of 2012 also filed before the VIII Metropolitan Magistrate, Rajendranagar, besides M.C.190/2011 under Section 125 Cr.P.C. with false claims as if she is house wife though employee and there is divorce petition FC.OP.1784 of 2013 also filed under Section 13 of Hindu Marriage Act at Family Court, L.B.Nagar, besides the present case, only to harass the accused persons to see that they shall travel all through from Karnataka State and suffer and even the *de facto* complainant and her family members started black mailing and threatening. It is also contended that there is no jurisdiction to the learned Magistrate to take cognizance to the respective police to register crime and file final report from so called investigation and the calendar case proceedings therefore liable to be quashed.

4. In the course of hearing, the counsel for the petitioners/accused reiterated the same whereas, the learned Public Prosecutor representing the State and the counsel for *de facto* complainant sought for dismissal of the quash petition saying there are allegations specific with *prima facie* accusation from the investigation by police with reference to the private complaint referred by the learned Magistrate to police and there is nothing to quash the proceedings and thereby, the quash petition is liable to be dismissed against all the petitioners/accused 1 to 4 and sought for dismissal accordingly in saying the Hyderabad Court taken cognizance got jurisdiction to try.

5. Heard and perused the material on record.

6. The sum and substance of the accusation from the private complaint and the police investigation statements with reference to it covered by the final report in the form of charge sheet in deciding as to whether there is any sustainable accusation against any of the petitioners/accused or else, to quash the proceedings as sought for concerned is that, though met at the time of marriage the dowry demands, including given valuables in the form of gold ornaments and household articles and the matrimonial life between the couple went happily for three months at the in-laws place of the *de facto* complainant at Heerbidanour of Karnataka State in the family house where A1 to A4 were residing together and A1 was working as Software Engineer at Bangalore, from the first three months after the marital life, all the accused persons started harassing to bring additional dowry of Rs.10 lakhs and also to give flat in the Apartment by claiming A1 was drawing salary of Rs.90,000/- per month and if at all any other match selected, they could get dowry of nearly one crore and all the persons in collusion with each other, taken the gold jewellery and other valuable articles of the complainant and kept in their possession and not allowed the

de facto complainant, but for to wear the 'Pustelatadu' by retaining the valuables and all the accused were abusing her and her parents by not satisfied with the marriage arrangements and way of performance and they were using filthy language and behaving in an unreasonable manner by exhibiting abnormal temperament. At one occasion, A1 threatened the *de facto* complainant to kill her so as to go for another loop way to marital relationship. On one occasion, A1 and *de facto* complainant went to temple in their way. A1 threatened her and A2 to A4 who were with him, also supported him. A1 not only mentally but also physically harassed and even tried to twist her hand and when she was weeping from the pain, A2 to A4 came and instead of questioning A1, started abusing her and A1 was used to say that at the instance of A2 to A3, he agreed and married the *de facto* complainant, otherwise not willing and even attributing as if she is of bad character and they all created a situation of hell to her and other accused were insisting A1 to beat the complainant to satisfy their greedy demands for additional dowry and she was beaten with hands and legs by A1 many a time, including by hurling abuses suspecting her character by not even allowing to take her to neighbours and made her life miserable.

7. It is further averred that on 20.03.2011, all accused warned the complainant to leave the house unless brings additional dowry of Rs.10 lakhs with flat which made the complainant to leave the house of accused from their threats and started residing at her parents there from and even they do not heed to the well wishers advise to allow her to join back her husband.

8. It is stated in the final report with reference to the above from so called investigation that the investigation established those facts making out *prima-facie* accusation against all accused for the crime registered on the private complaint so to take cognizance. Even from the

entire investigation material referred supra, there are not even any specific instances attributing personally other than against A1 so far as A2 to A4 concerned, but for a general allegation was vaguely all they were harassing and instigating A1 as to any of the other accused among A2 to A4 made any specific cruel act or made any specific demand with date and time and as to why not chosen to report to police if at all for the earlier harassment by A1 at the so called instigation of A2 to A4. No doubt from the material on record, including from the statements of witnesses referred supra, there is a *prima facie* accusation so far as A1 concerned, but not against the others and the law is fairly settled in this matter by catena of expressions of the Apex Court 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 allegations to rope them and even any sentence as is suffered harassment in the house of in-laws in the hands of other accused not sufficient as bald allegations or bald statements will not sustain any such accusation by other accused from the roping and any continuation is nothing but abuse of process of law on such bald allegations by array of accused, the other family members.

9. Having regard to the above and in the result, the Criminal Petition is allowed in- part by quashing the calendar case proceedings in so far as against A2 to A4 and dismissed in so far as against A1.

10. Miscellaneous petitions pending if any, in this petition, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 03.04.2019

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