

HONOURABLE Dr.JUSTICE B. SIVA SANKARA RAO

Criminal Petition No.11090 of 2018

ORDER:

The petitioner by name P.Vandana, Teacher, no other than married sister-in-law of the defacto-complainant is A.3 among 5 accused viz: husband-A.1, mother-in-law-A.2, residents of Tarnaka and another married sister-in-law-A.4, resident at paradise area and father-in-law-A.4 of defacto-complainant respectively in C.C.No.99 of 2018 on the file of the XV Addl.Chief Metropolitan Magistrate at Hyderabad, outcome of crime No.78 of 2018 of WPS, Begumpet dt.09.04.2018 registered for the offences punishable u/ sec.498-AIPC and Section 4 of the Dowry Prohibition Act(for short, 'the DP Act'), and the police after investigation filed chargesheet by not charging the A.4 supra but for others among A.1 to A.5 by examination of four witnesses including the defacto-complainant as L.W.1, her mother as L.W.2, their family friend as L.W.3 from which the learned Magistrate taken cognizance for the offences supra.

2. It is impugning the same, the petitioner-A.3 filed quash petition with the contentions that she is unnecessarily and falsely roped with on vague, frivolous, fictitious and malicious allegations without basis in order to harass and trouble her and the police also without proper investigation and with no prima facie material charged her that too having deleting her other sister(A.4) from the charge sheet, that she has nothing to do with them and there was no occasion to her to ill-treat the defacto-complainant, that after marriage of defacto-complainant with the A.1 they are living separately with the family of her parents with no cordial relationship. Thereby the cognizance taken by the learned magistrate on police report is unsustainable, hence to quash the proceedings against her in the Calander Case supra.

3. The learned counsel for the petitioner-A.3 reiterated the same. Whereas, it is the submission of the learned Public Prosecutor and learned counsel for the 2nd respondent-defacto-complainant that there is prima facie accusation against the petitioner/ A.3 along with others in the offences alleged against them,

hence there is nothing for this Court to quash the proceedings against the petitioner. Heard both sides 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 law is fairly settled in this regard from the 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 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

¹ 2018 SCC Online SC 1080

² 1992 Supp (1) SCC 335

³ 2000(5) scc 207

⁴ 2014(16) SCC 551

⁵ 2009(10) SCC 184

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 legal position coming to the facts, the sum and substance in the report of the defacto-complainant dt.06.03.2018 it shows that there was counseling and from which efforts failed, the crime registered on 09.04.2018 on her report with the contents that her marriage with the A.1 was performed on 29.11.2017 at Tirumala arranged through elders and she joined her husband at 01.01.2017 at Hyderabad. From that day onwards she was ill-treated by the accused persons and her husband was torturing her physically everyday in the nights by having not only sex by beating and trying to press her neck to oblige his demands for it and even her parents gave about an amount of Rs.3lakhs, the accused persons are demanding to bring gold, motor cycle and computer etc. Her husband-A.1 is in fact a psycho and knowingly the marriage was performed in deceiving her and her mother-in-law was not even providing food and ill-treating her including by poisoning the mind of her husband and she stated the same in her statement during investigation besides her mother-in-law demanded her to bring

⁶ 2017(9) SCC 413

⁷ 2009(10) SCC 604

whatsoever the presentations at the time of marriage given to her, to the matrimonial home and the marriage was performed by suppressing the facts of her husband has no avocation but pretending as if he was doing job. The A.1 behaved madly from the day of her joining his company onwards and he was waking up all of a sudden in the midnights in asking her to talk with him and everyday he was creating hell by not only sexually harassing in a psychic disorder and even she informed to her mother-in-law and sisters-in-law, they persuaded her saying to act to his tunes. Her father-in-law-A.5 is money minded and harassed her to do some job and thereby all the accused persons ill-treated her without even providing food and unable to bear the harassment, when she came to her parents on 31.12.2017 and on 02.01.2018, her mother, sister-L.W.4 Vasanba and herself went to her in-laws house where they did not allow and asked her to go out giving her clothes in a bag if she does not like to act to the tunes of her husband. Her husband was creating scene even she joined in a private job by coming there in drunken state and there was a panchayat on 26.01.2018 through the elders including L.W.3-family friend and her mother-L.W.2 and after one month she was asked to come and join and she went there however her husband came in drunken state, tried to beat her for which she complained to the Osmania University police Station, where they called for counseling and even there was no change in their attitude and even her husband and in-laws retained all her samaans and valuables not even allowing her. Hence to take action.

6. There is no any specific allegation with any specific overt acts so far as the petitioner-A.3 the married sister-in-law of the defacto-complainant, a teacher by avocation not even residing in the same house with them, leave about the A.3 and A.4 are the two sisters-in-law of defacto-complainant both are married and both are working. The accusation against the A.4 is concerned, the police could not give any sustainable reasons and so far as the petitioner/ A.3 concerned they chargesheeted her for the same allegation against both the married sisters-in-law as vague as anything that simply stated that when she complained to them about the harassment in the hands of her husband-A.1, they stated about heeding him and obliging him which cannot constitute even taken as gospel truth to charge that

too in charging one and not charging the other among the two married sisters (A.2- the petitioner and the A.4) by police.

7. Having regard to the above and with reference to the legal position discussed supra for no sustainable accusation against the petitioner/ A3, the continuation of proceedings against her for the offences taken cognizance is nothing but abuse of process.

8. In the result, the Criminal Petition is allowed quashing the proceedings against the petitioner/ A.3 in C.C.No.99 of 2018 on the file of the XV Addl.Chief Metropolitan Magistrate, at Hyderabad, outcome of Cr.No.99 of 2018 of W.P.S.Begumpet registered for the offences punishable u/ sec.498-A IPC and u/ sec.4 of the DP Act and she is acquitted. Her 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,

