

HONOURABLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.8790 of 2013

ORDER:

The petitioners are accused Nos.2 to 4 in C.C.No.370 of 2013 on the file of the learned III Metropolitan Magistrate, L.B. Nagar, outcome of Crime No.211 of 2013, dated 01.04.2013, of Uppal Police Station, Ranga Reddy District, registered for the offences punishable under Sections 498-A r/w 34 of Indian Penal Code, 1860 (for short, 'IPC') and Sections 3 and 4 of the Dowry Prohibition Act, 1961 (for short, 'the DP Act'), on the report of the *de facto* complainant/2nd respondent. The petitioners/A-2 to A-4 are no other than father-in-law and two sisters-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, in registration of crime supra are that her marriage (inter-caste) with A-1 - Pushker Jee Srivastav was performed on 04.10.2009 as per Hindu rites and at the time of marriage her parents given Rs.4,30,000/- cash and 15 tulas gold towards dowry and after marriage every month she was transferring an amount of Rs.10,000/- to Rs.12,000/- to her husband's account through online and in their matrimonial life, she blessed with female child, by name Rithima Srivastav, aged 1 ½ year. As she blessed with female child, her husband and in-laws were harassing her physically and mentally for want of additional dowry. Her father-in-law and sisters-in-law used to say as she was not their caste and if they married her husband with another woman of their caste they will get Rs.15,00,000/- dowry and harassed her

physically and mentally for want of additional dowry and if she did not bring additional dowry, they will neck her and her baby out of their house, hence to take action. The police after investigation filed the charge sheet by citing 7 witnesses, viz., L.W.1-*de facto* complainant, L.W.2-her father, L.Ws.3 to 5 are circumstantial witnesses and L.W.6-Investigating Officer, who issued the FIR and L.W.7-Investigating Officer, who investigated and filed the charge sheet. During the course of investigation, the L.W.7-Investigating Officer examined and recorded the statements of L.Ws.1 to 5, which shows the involvement of accused Nos.1 to 4. The investigation, supported by the evidence, disclose that L.W.1-*de facto* complainant is resident of Srinivasapuram, Ramanthapur, and native of Kothagudem, Khammam District, and her father-L.W.2 is an employee in Singareni, as such they are staying at Singareni quarters. The accused No.1 family came from the State of UP and A-2 is employee of Singareni and they were staying in the same Singareni quarters. In the year 1996-97, the complainant and A-1 fell in love. In the year 2005, L.W.1 came to Hyderabad for higher studies staying at Habsiguda Hostel. After retirement of A-2, they shifted their family to Hyderabad and at that time again A-1 came in contact with L.W.1 and used to talk each other and A-1 proposed her for marriage, but parents of L.W.1 did not agree for that marriage. A-1's parents agreed for their marriage and on 04.10.2009, L.W.1's marriage was solemnized with A-1 at Badrachalam as per Hindu rites. After retirement of L.W.2, he has given an amount of Rs.4,30,000/- cash and 15 tulas of gold to L.W.1 and the same was taken by A-1 for the purpose of business and also every month, L.W.1 transferring

Rs.10,000/- to Rs.12,000/- to A-1's account through online. In the year 2001, L.W.1 gave birth to female child, from that time A-1 harassed the complainant physically and mentally to bring Rs.5,00,000/- additional dowry. Accused Nos.2 to 4 instigates A-1 to bring the additional dowry from the L.W.1 parents. Accused Nos.2 to 4 also used to abuse her as she was not their caste and religion and if they performed the marriage of A-1 with another girl, they will get Rs.15,00,000/- dowry. Thereafter, A-1 to A-4 necked out the L.W.1 along with her baby from the house for want of additional dowry from her parents and said if she did not bring the amount, they will not allow her into the house. From that time, she was staying in the house of L.W.4. Therefrom, the learned Magistrate has taken cognizance for the offences supra.

3. The contentions vis-à-vis oral submissions of the learned counsel for the petitioners that they are innocent and the allegations made against them are omnibus, false and concocted for the purpose of this case and the petitioners never harassed the complainant on any aspect nor instigated A-1 to harass the complainant for any reason and the allegations levelled only with a view to harass the petitioners so as to arm twist and pressurize A-1 to yield to her illegal demands. It is contended that the marriage was performed at Bhadrachalam Temple, Khammam District, in the presence of the petitioners and said marriage was a love marriage and the petitioners have accepted the marriage because A-1 is the only son for petitioner No.1 and only brother for petitioner Nos.2 & 3 and it was falsely alleged in the complaint that the petitioners abused the complainant as she was not their caste and religion, but the petitioners know very well that the

complainant belongs to different religion before marriage, therefore there is no question of abusing the complainant subsequently. It is further contended that the complainant after marriage joined A-1 along with petitioner Nos.1 & 3, among whom petitioner No.1 is aged about 67 years suffering from different ailments and require continuous medication and petitioner No.3 is a handicapped person and requires help of another woman in her day-to-day life and also at the time of menstruation and the complainant used to take care about the petitioners well, but suddenly she started harassing A-1 to go away from petitioners Nos.1 & 3 and when A-1 tried to convince her she went to her maternal uncle's house at Kothagudem and not given response whenever the petitioners and A-1 called to her mobile and even A-1 went away from the petitioners and taken another rented house for starting a new life with the complainant. It is also contended that it is falsely alleged in the complaint that after marriage of complainant and A-1, the complainant's parents given certain amounts and ornaments to the petitioners and it is falsely alleged that petitioners harassed the complainant for additional dowry and in fact, the complainant's father not accepted said marriage and there is no question of giving amount to the petitioners and sought for quashing the proceedings by allowing the petition.

4. 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.

5. 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.

6. There is no record even shown from the police charge sheet by collecting from father of *de facto* complainant as to any so-called additional amount of Rs.4,30,000/- given out of his retirement benefits or 15 tulas of gold. It is crucial if at all to believe as to what were the retirement benefits he received and when from his account he parted with. There is no date or time even mentioned either in the report or from the police investigation to believe, leave about the fact that the so-called marriage performed, from the police investigation out of love affair between A-1 and *de facto* complainant against the will of the parents of the *de facto* complainant and the parents of A-1, who are A-2 & A-3 from the beginning agreed for the love marriage with no objection. Once such is the case, even the stray allegation of the petitioners/A-2 to A-4 used to abuse her as not of their caste or religion and if they marry another girl, they could get more dowry itself is unbelievable, for the very marriage is love marriage. Even to say that there was any instigation to A-1 by A-2 to A-4 for additional dowry when it is a love marriage and no dowry shown paid originally and as discussed supra of no any payment of dowry by father of *de facto* complainant after his retirement from his benefits alleged, the question of any payment of additional dowry is unbelievable. It clearly shows the petitioners/A-2 to A-4 are roped without any basis for reasons better known by the *de facto* complainant and the police investigation in this regard is also perfunctory and baseless and the legal position is very clear that

unless from the specific allegations in the complaint against the other relatives of the husband, no cognizance can be taken against the family members, particularly from the tendency of making baseless allegations in roping them and even a stray sentence as suffered harassment in the hands of in-laws, etc., is not sufficient to sustain any such accusation to rope the other family members of the husband of the *de facto* complainant, so-called victim.

7. Having regard to the above, the Criminal Petition is allowed by quashing the proceedings against the petitioners/A-2 to A-4 in C.C.No.370 of 2013, on the file of the learned III Metropolitan Magistrate, L.B. Nagar.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 03.04.2019

KL/Ska

HONOURABLE DR. JUSTICE B. SIVA SANKARA RAO



CRIMINAL PETITION No.8790 of 2013

Date: 04.03.2019

KL/Ska