

THE HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.12558 OF 2018

ORDER:

The petitioners are A-2 & A-3 among three accused, no other than husband and parents of the husband of the *de facto* complainant/2nd respondent, in C.C.No.950 of 2018, pending on the file of the learned XXIV Metropolitan Magistrate, Kukatpally at Miyapur, Cyberabad, taken cognizance for the offences punishable under Section 498-A of Indian Penal Code (for short, 'IPC') and Sections 3 & 4 of the Dowry Prohibition Act, 1961, which is outcome of Crime No.55 of 2018, dated 12.02.2018, of the *de facto* complainant, registered by Balanagar Police Station, Medchal District, and from the investigation after examination of five witnesses including the *de facto* complainant victim and her parents, her mother, brother and two elders and by citing the panch witnesses – L.Ws.6 & 7 and the Investigating Officers - L.Ws.8 & 9, filed the charge sheet, from which the cognizance was taken. It is impugning the same, the present quash petition is filed by the parents-in-law of the *de facto* complainant, who are A-2 & A-3, with the contentions in the grounds of the quash petition that even on the face value of the entire investigation material covered by the police final report taken cognizance by the learned Magistrate, there are no any sustainable accusations to attract any of the offences punishable under Section 489-A IPC and Sections 3 & 4 of the Dowry Prohibition Act, 1961, and the cognizance order is unsustainable and the criminal petition is liable to be allowed.

2. Heard learned counsel for the petitioners and taken as heard the 2nd respondent for notice sent by Registered Post as per the track record served with no representation and also heard the learned Public

Prosecutor representing the 1st respondent State and perused the material on record.

3. From the very report of the *de facto* complainant in registration of the crime and from the examination of the witnesses in filing the police final report that was taken cognizance for the offences, the facts on record discloses that marriage of A-1 with *de facto* complainant was performed on 12.08.2017 at Balanagar, Hyderabad, arranged through elders. It is the say of the *de facto* complainant in her report and statement before police that as per the wish of the mother-in-law, who is the 1st petitioner herein - A-2, Rs.10,00,000/- cash, 3 tulas gold and 25 tulas silver was given at the time of marriage and for one month after marriage, the marital life went smoothly and happily and thereafter A-1, husband of the *de facto* complainant, daily coming under intoxication and abusing her in vulgar and by teasing her as if she is a stout personality and the mother of the *de facto* complainant also came and questioned them and convinced for treating her well. However, after few days, he reverted his old conduct and on one day, he came under intoxication and woke up her while she was under sleep and altercated with her by saying he is not liking her and leave the house or to die and beat her and slapped with chappals and she went to the second floor to avert his attack further. He came there and again forcibly dragged her to the bed room and also slapped her and with cigarette buds caused burn injuries on her back.

4. All these allegations are mainly against A-1, but for to say at the time of marriage, giving of cash and gold and silver with a single sentence in saying it is as per the wish of the mother-in-law, not even in saying at the demand of the mother-in-law, not even in saying in compel to pay not voluntary, not even in saying not for her benefit, but

for any of the accused. Coming to any of the allegations further from the report and statement of her during investigation insofar as A-2 & A-3, parents of her husband concerned, her father-in-law, having seen the said attack and cruel treatment by her husband, did not prevent him and went inside his room. At best, he is a witness for nothing to say he instigated though he is supposed to prevent otherwise, being the elder in the family. However, that itself is not suffice to rope him with any criminal offence. What further stated is few days thereafter, in the absence of her husband, her father-in-law Pentaiah dragged her not to stay the couple in that room and go to the ground floor and stay and removed all the clothes of the couple and brought to the ground floor and locked the first floor bed room. It is not even stated her husband got any share in the house. Even therefrom, it is not a case of her father-in-law driven her out of the house, but asked her by putting all these samans to the ground floor and directing to stay in ground floor rather than first floor by putting lock to the bed room of the first floor. Therefrom also, no offence under Section 498-A IPC made out against him. What she further stated is against her husband that he came on that night after mid night under fully intoxicated condition and did not bother even she complained and she informed to her uncle Raju Mohan and mother's sister Jyothi. They came and settled the dispute. What she stated is again against her husband saying he went to a party and did not come house, she telephoned to him and he stated that he was with friends. He came after mid night by early hours of 2.00 A.M. subsequent to intervening night and bolted the bed room after entering the house and poured the urinals in the bed room instead of going to the bath room and made her to clean the same and when she questioned, he got hold of her tuft and pushed her to a wall and demanded her to bring the further demand of Rs.1,00,000/- dowry from

her mother and when she telephoned to her mother, he removed her phone when she was talking to her mother and thrown into the wall, from which it was damaged and for her cries, her mother-in-law and father-in-law came to the flat and they did not question him and she went to the house of her paternal uncle Amar therefrom. Even from what all, their silence will not make them as accused, for there is no such wording to attract the offence under Section 498-A IPC though they being the elders in the family supposed to prevent the onslaughts on her by her husband.

5. Having regard to the above, the continuation of proceedings against the petitioners/A-2 & A-2 for no sustainable accusation even from the investigation for the learned Magistrate to take cognizance is nothing but abuse of process, thereby the Criminal Petition is allowed by quashing the proceedings against the petitioners/A-2 & A-3 in C.C.No.950 of 2018, on the file of the learned XXIV Metropolitan Magistrate, Kukatpally, at Miyapur, Cyberabad.

Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence.

Dr.B.SIVA SANKARA RAO, J

Date: 30th January, 2019

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