

THE HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.13156 of 2018

ORDER :

The petitioners are A.1 to A.4 of Crime No.565 of 2018 of Raidurgam Police Station of Cyberabad Commissionerate registered on 27.10.2018 for the offences punishable under Sections 498-A, 506 and 504 IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961, from the report of the 1st respondent-*de facto* complainant, no other than the wife of the 1st petitioner-A.1, A.2 and A.3 are the parents of A.1 and A.4 is the brother of A.1, all are residents of Karwan of Hyderabad.

2. As per the report of the *de facto* complainant in registration of the crime, the marriage of the *de facto* complainant with A.1 was performed on 23.04.2008 at Sri Venkateswara Swamy Temple, Rayadurg, arranged by elders, preceded by marriage talks and engagement, that the accused persons approached the parents of the *de facto* complainant in proposing the *de facto* complainant to A.1 in February, 2008, with assurances of A.2 and A.3 that A.1 is well mannered and sober, by suppressing the fact that he is a vagabond and habitual drunkard and though he holds M.C.A. graduation never stays with any employer for a considerable period and always loses his job on account of his conduct and unable to know this, parents of the *de facto* complainant agreed for proposal with A.1. It is also represented as if A.2 is working as Headmaster though retired. A.1 and his

parents-A.2 and A.3 and A.4-the brother of A.1, demanded that engagement ceremony be performed on 06.03.2008 only her parents pay the dowry amount of Rs.3,50,000/- in cash and accordingly on payment of the same, engagement ceremony was performed on 06.03.2008 and they demanded further four tulas of gold, Honda Unicorn two wheeler, house hold articles including cot, almiray, cooking materials, etc., at the time of marriage fixed to be performed on 23.04.2008 and accordingly it was performed and the demands were fulfilled. It is further averred in the report that after marriage they blessed with no children and they approached the hospitals to know the deficiency and it came to know on account of his vices in smoking and drinking, no children conceived and despite her requests he never stopped his habits and always he is linking with other women through face book and other social network sites and on account of his above vices the hopes mused and money spent by her parents wasted. Her in-laws undertook to demolish their house and construct a new one and forced the *de facto* complainant and A.1 to leave the house in December 2009, therefrom they vacated the house of their in-laws and later A.1 increased his bad habits and started harassing *de facto* complainant physically and mentally making unbearable. In March 2011, her in-laws called back, but A.1 not even in control of his parents, her parents and brother i.e., A.2 to A.4 always supporting A.1 by subjecting the *de facto* complainant to mental abuse and physical harassment. A.1 was not doing any job for maintenance therefrom *de*

facto complainant started working in Karvy and spending the amounts for the family maintenance. Even she was maintaining the family with hard earned income of her, A.1 did not stop his demands for additional dowry from the parents of her and due to unbearable harassment and from his pouring of kerosene on her by putting to mental agony with constant harassment including for additional demand, her mother V. Sangeetha fell sick and breathed last on 23.01.2012 and later even the accused did not stop their torture of *de facto* complainant and he has even started putting his profile in matrimonial websites to further harass the *de facto* complainant and with no go she left to her parents. In February 2013, A.1 came to her parents and requested to send *de facto* complainant back to him with false assurances saying he had given up his vices and intended to lead normal life and even she believed his assurances and joined him where they were living at her in-laws house all the accused demanded to pay Rs.8,000/- per month towards rent of the accommodation of their house and the *de facto* complainant used to pay the same and they further collected Rs.50,000/- from her parents stating for personal leads and again collected Rs.20,000/- from the further say of required for treatment of her mother-in-law (A.3) and they subscribed Rs.50,000/- in a chit near her parent's house and after became highest bidder never paid the installments that were cleared by her father, A.1 sold his two wheeler presented by her father by mis-using the sale proceeds to his vices and started demanding to gift a new vehicle and

her father gifted new vehicle Honda Activa that was also sold and mis-used by A.1. A.4 also fell huge debts and in the habit of demanding her father additional dowry for such reason as well and they extracted money many a time never given her dignity as wife of A.1 with abuses including in filthy and by manhandling in extracting money. A.1 developed illicit relationship with one Sirisha by representing her as if he is un-married and he extracted money from her also and started declaring her as his wife and stayed with her at Punjagutta in a rented house, his parents and brother are aiding him in all these illicit acts and A.2 even went to the extent of advising A.1 and Sirisha for marrying together having full well know the *de facto* complainant is wife of A.1. A.2 started saying he is a practicing advocate and he can manage everything and anybody. On 31.03.2017 night at about 9.00 p.m. A.1 and his parents locked the doors of their house from inside by necked out *de facto* complainant and in that night she left to her parents house and started living there till date. When herself and her father and relatives went to question the accused, they threatened to attack with sticks unless they leave their house. It came to know A.1 developed illicit relationship with Sirisha and cautioned Sirish about conduct of A.1 and he is already married to *de facto* complainant and after alleging fraud when Sirisha left him and stopped paying money he is now threatening to kill the *de facto* complainant through sham accidents in the journey to the place of her employment. Hence to take action.

3. The contentions in the quash petition are that the allegations are baseless, false and untrue and self serving about 10 years after the marriage are false and there is a consent divorce petition filed on 09.11.2018 to dissolve the marriage between the *de facto* complainant and A.1 pursuant to the Memorandum of Understanding (MOU) entered between them and a letter was given to the Inspector of Police, Raidurgam, who registered the crime, on 15.11.2018 of the both parties settled amicably before elders covered by MOU, dated 09.11.2018, and in view of the compromise and from the settlement, the continuation of proceedings are nothing but abuse of process and sought for allowing the petition by quashing the proceedings.

4. Notice sent to the *de facto* complainant returned unclaimed is a sufficient service. Earlier in the present crime quash petition No.12819 of 2018 filed and the same was disposed of to follow Section 41-A Cr.P.C. on dated 29.11.2018. Along with quash petition, the consent divorce petition duly signed by both parties was enclosed, where it is mentioned that after marriage differences occurred between the couple and the elders settled the matter out side the Court. Thereby, for no comparitibility and no possibility of living together and decided to take mutual consent divorce dissolving their marriage tie dated 23.04.2008, also enclosed the MOU arrived between both parties through elders dated 09.11.2018, where it is mentioned there are no claims inter se between the parties and through elders they settled their disputes out side the Court amicably and

decided to dissolve their marital tie and *de facto* complainant herein as second petitioner to the concerned divorce and MOU, assured not to file any civil or criminal cases and not to raise any claims and each shall not interfere with the personal life of others.

5. Having regard to the above and even she did not choose to contest by notice sent returned unclaimed and from the settlement arrived as per MOU the continuation of proceedings is nothing but abuse of process once they settled the disputes even she did not come forward and choose to withdraw by relying upon the judgment of the Apex Court in **Ruchi Agarwal v. Amit Kumar Agarwal**¹ and in **Mohd. Shamim and others vs. Nahid Begum and another** in Criminal Appeal No.23 of 2005, dated 07.01.2005, it is held that we are of the opinion that the appellant having received the relief she wanted without contest on the basis of terms of compromise, the conduct of her indicates in the criminal petition complaint from which the criminal proceedings continued only to harass the respondent, hence to quash and the same quoted with approval by the Apex Court.

6. Accordingly, the criminal petition is allowed and the proceedings against the petitioners/A.1 to A.4 in Crime No.565 of 2018 of Raidurgam Police Station, Cyberabad, are quashed and they are acquitted. The bail bonds of the petitioners/A.1 to A.4, if any, shall stand cancelled.

¹ 2005 (3) SCC 299

Miscellaneous petitions pending, if any, shall stand closed.

Dt: 21-01-2019

mar

Dr. B. SIVA SANKARA RAO, J