

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.13369 of 2018

ORDER:-

The petitioners are accused 1, 2 & 4, among four accused of whom A3-mother-in-law of *de facto* complainant died, in CC.No.415 of 2018 on the file of the I Additional Judicial Magistrate of First Class, Khammam, taken cognizance for the offences punishable under Sections 498-A and 506 IPC outcome of Crime No.7 of 2018, dated 11.02.2018 of WPS, Khammam, from the report of the 2nd respondent/*de facto* complainant, no other than wife of A1 and daughter- in- law of A2, A3 and sister- in-law of A4 in setting the law in motion in registration of crime and there from the police after investigation by citing ten (10) witnesses, including the LW10-Investigating Officer to register crime and filed charge sheet besides the *de facto* complainant- LW1 and her father- LW2, other relative- LW3 and other circumstantial evidences as LWs 4 to 9 and the learned Magistrate there from taken cognizance which is the subject of impugment in seeking to quash the said proceedings.

2. The sum and substance of the accusation in registration of the crime is that, the marriage of A1 with *de facto* complainant was performed on 26.11.2015 at Vasavi Gardens Kalyanamandapam under Hindu Law custom at Siripuram of Visakhapatnam and at the time of marriage as per the demands of the accused persons, her parents presented 350 gms gold jewellery, 2 Kgs. silver ornaments, Rs.15 lakhs dowry in cash and Rs.1 lakh towards 'Lanchanam' of married sister- in-law of the *de facto* complainant i.e. A4 and after marriage, the *de facto*

complainant joined her husband at in-laws house, they treated for one month happily and later, her husband started harassing her by raising issues for nothing, including by saying that the dowry paid at the time of marriage is a pittance and very low and started demanding to bring additional dowry of Rs.25 lakhs and her husband was beating and abusing and A4, married sister-in-law, also now and then coming to her parents and joining with others by instigating along with the mother-in-law, her husband, in ill-treating and they used to say that if they marry any other girl they could get more dowry and even she put up all through their harassment hoping for a change and good. But, there is no change and they started harassing and abusing and even threatened to kill and they are warning not to disclose the harassment to any others, else they will do away.

3. It is further stated that on 06.10.2007, her husband and mother-in-law raised a dispute and thrown the meals plate from her hands and beat and asked her to go out from the house and come back only with additional dowry of Rs.25 lakhs and unable to bear with their harassment, she constrained to leave the matrimonial house on 07.10.2007 and informed the same to her parents. On 26.10.2017, her husband and mother-in-law came to her parents house and abused and beat in questioning as to why brought back the wearing jewellery. Her parents raised a dispute through elders on 18.11.2017 and at that time, they abused and beat and sent them. On 01.02.2018, when she was at her parents, her husband came with some persons and abused saying stay at her parents with no reason and why not bring additional dowry to stay back with him and when he was abusing and beating, her father and other persons intervened and her husband left and the accused were

threatening to do away unless she meets the additional dowry demand of them supra. It is mentioned that she is not willing for sending to District Legal Services Authority (DLSA) for counselling in the last line of the report. It is there from the crime registered and the final report filed from the examination of the witnesses supra. LW1 reiterated the contents of the FIR, so also her father- LW2 and the maternal uncle- LW3. LW4 is a neighbour stated that accused were harassing *de facto* complainant by demanding additional dowry and she was necked out from the matrimonial house and LW5 stated to be dhobi, worked in the house of the complainant, speaks about accused harassing the *de facto* complainant, A1 quarrelled by coming to the *de facto* complainant's parents house on 26.10.2017 and also beat her. LW6 what he stated is the friend of LW2, father of defacto complainant, and on 07.10.2017, *de facto* complainant was necked out by accused from their house and on 26.10.2017, A1 came to the *de facto* complainant parents house and quarrelled and he along with others and *de facto* complainant and her father went to Visakhapatnam to the house of accused for settling the disputes, however, they behaved rudely with a demand to bring additional dowry. Same is also the verision of LW7, LW8 & LW9.

4. So far as A1 concerned, there are specific instances, including A1 coming to the house of the parents of the *de facto* complainant, beat and ill- treated even from the said submissions of LWs 5 to 9 and when all they went to the house of accused they behaved rudely, particularly A1, that itself is not sufficient to rope of the accused but for from some other material and so far as A2-father- in- law of *de facto* complainant concerned, there is no any specific sustainable accusation and so far as A4- married sister- in- law of *de facto* complainant, the allegation is as vague as anything that too when she is

resident of Anakapally and accused are residents of Siripuram, Visakhapatnam, and none of the witnesses from Siripuram, Visakhapatnam even chosen to examine by police to sustain any allegation against A2, A4 concerned, but for from the *de facto* complainant and her father statements, besides A1 there is role of A3- mother of A1.

5. Having regard to the above and from the settled legal position 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.

6. In the result, the Criminal Petition is allowed in-part by quashing the proceedings against A2 & A4, by continuing against A1, in CC.No.415 of 2018 on the file of the I Additional Judicial Magistrate of First Class, Khammam. The cognizance order so far as A2 and A4 not sustainable, but for against A1, so far as and contention of there was earlier FIR also, it is a matter not by itself a ground for quashing for no bar for subsequent events if at all to give a fresh report merely because any some of the facts over-lapping, but for to consider at the post- charge stage on own merits during trial in so far as A1.

7. 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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