

HONOURABLE JUSTICE G.SRI DEVI

CRIMINAL PETITION No. 341 of 2020

ORDER:

This Criminal Petition is filed by the petitioner/A-4 under Section 482 of Cr.P.C., seeking to quash the proceedings initiated against her in S.C.No.122 of 2019 on the file of the II Additional District Judge (FTC), Mancherial.

The facts in issue are as under:

The 2nd respondent/*de facto* complainant lodged a complaint against A-1 to A-5 before the Sub Inspector of Police, Ramakrishnapur Police Station, Ramagundam District. Basing on the said complaint, a case in Crime No.67 of 2018 of Ramakrishnapur Police Station came to be registered for the offences punishable under Sections 498-A and 313 read with 34 of I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act, 1961. After completing investigation, the Police filed charge sheet, which was taken cognizance as S.C.No.122 of 2019. The allegations in the complaint are that the marriage of the 2nd respondent/*de facto* complainant was performed with A-1 on 30.04.2017 as per their caste customs. At the time of marriage, net cash of Rs.21.00 lakhs, 20 tulas of gold and other household articles were offered towards dowry by the parents of the 2nd

respondent/ *de facto* complainant. After two months of the marriage, A-1, A-2, A-3, A-4 and A-5, who are husband, mother-in-law, father-in-law, sister-in-law and brother-in-law of the 2nd respondent/*de facto* complainant, started harassing the 2nd respondent/*de facto* complainant mentally and physically for want of additional dowry for the purpose of purchasing a house at Hyderabad and that the 2nd respondent/*de facto* complainant told her in-laws to convey the same to her parents. Thereafter, the accused forcibly took her 20 tulas of gold and mortgaged in the bank and when the same was informed to her parents, a panchayat was held in the presence of elders viz., Jakkula Rajaiah, Kothapalli Odelu and others and in that panchayat, A-1 took the 2nd respondent/*de facto* complainant to his house by promising that he would not harass her. After one week, at the instigation of A-2 to A-5, A-1 abused her in most vulgar language and assaulted her and when the 2nd respondent/*de facto* complainant tried to contact with her parents with her phone, the petitioner/A4 took her phone and broke it and that her mother-in-law/A2 kicked her with legs. Subsequently, when the 2nd respondent/*de facto* complainant questioned about the harassment, A-1 said that they will harass like this only till she brings additional dowry to purchase a

house. Two months prior to the lodging of report, the 2nd respondent/*de facto* complainant came to know that she was pregnant and that she requested A-1 to take her to hospital for check up, but he refused the same, instead he forced her to make abortion. Since the 2nd respondent did not accept for abortion, A-2 and their family members confined her in a room without giving any food in order to make abortion. On 26.04.2018 during night hours, A-2 advised A-1 to kick on the stomach of the 2nd respondent/*de facto* complaint in order to make abortion and that when the petitioner/A4 caught hold the 2nd respondent/*de facto* complainant, A-1 kicked on her stomach. Thereafter, A-1, A-4 and A-5 harassed her physically and confined in a room and that she got severe bleeding. On 27.04.2018 at about 5.30 A.M. due to fear of death, the 2nd respondent/*de facto* complainant escaped from the house and contacted with her relatives and with their help, she got admitted in the hospital and that on 28.04.2018, the mother and brother of the 2nd respondent/*de facto* complainant came and took her to Mancherial hospital for treatment.

Heard learned Counsel appearing for the petitioner/A-4, learned Additional Public Prosecutor appearing for the 1st

respondent-State and the learned Counsel appearing for the 2nd respondent/*de facto* complainant.

Learned Counsel appearing for the petitioner/A-4 would submit that the petitioner/A-4 never harassed the 2nd respondent/*de facto* complainant. From the date of marriage, the 2nd respondent/*de facto* complainant has a problem of irregular periods and it is difficult to get pregnancy and that A-1 took her to Nirvitha Hospital, where Dr.Shirisha examined her and diagnosed that she has a problem in uterus and she was advised to take treatment to get regular periods in order to get pregnancy. As per the advice of the doctor, the 2nd respondent/*de facto* complainant underwent medical examination on 27.04.2018 for ultrasound pelvis. In the said examination, the doctor found that the uterus of the 2nd respondent/*de facto* complainant was bulky and to that effect Dr.B.Sandhya, had given a certificate. Though the 2nd respondent/ *de facto* complainant was never conceived, she has made false allegations in the complaint and that the police without proper investigation and even without recording the statement of Dr.B.Sandhya has filed charge sheet for the offence punishable under Section 313 of I.P.C. as if the petitioner and others have committed that alleged offence. It is further

submitted that the petitioner/A-4 is a student and she has completed B.Tech (Electronics and Communications) and she got selected for the post of Constable (Information Technology and Communications) in the Telangana State Level Police Recruitment Board Examination. Moreover, she is un-married and if she is prosecuted for the alleged offences, her marriage may put in jeopardy and that she may not get any employment.

Learned Additional Public Prosecutor opposed the Criminal Petition.

Learned Counsel appearing for the 2nd respondent/*de facto* complainant reiterating the contents made in the charge sheet would submit that the truth or otherwise of the allegations made in the charge sheet can only be decided during the course of trial and that there are no valid and substantial grounds to quash the charge sheet at the threshold.

In **State of Haryana v. Bhajan Lal**¹, this Court considered in detail the provisions of Section 482 and the power of the High Court to quash criminal proceedings or FIR. This Court summarized the legal position by laying down the following guidelines to be followed by High Courts in exercise of their inherent powers to quash a criminal complaint:

¹ 1992 Supp. (1) SCC 335

- (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- (3) Where the allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non- cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on

the accused and with a view to spite him due to private and personal grudge.

In the instant case, as seen from the allegations in the complaint, there are no specific allegations against the petitioner/A-4, except the bald and general allegation that all the accused harassed the 2nd respondent/*de facto* complainant physically and mentally for want of additional dowry. There is no specific time or date of alleged harassment by the petitioner/A-4. Further, the petitioner/A-4 is a student and has completed her B.Tech Degree.

In view of the principles laid down by the Apex Court in *State of Haryana v. Bhajan Lal* (supra) and for the aforementioned reasons, the Criminal Petition is allowed and the proceedings in S.C.No.122 of 2019 on the file of the II Additional District Judge (FTC), Mancherial, against the petitioner/A-4 are hereby quashed.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

JUSTICE G.SRI DEVI

18.03.2020
gkv/Gsn

