

HONOURABLE JUSTICE G.SRI DEVI

CRIMINAL PETITION No.6595 of 2017

ORDER:

The petitioners/A-1 to A-4, filed the present Criminal Petition under Section 482 of Cr.P.C., seeking to quash the proceedings initiated against them in C.C.No.424 of 2015 on the file of the Principal Judicial First Class Magistrate, Jangaon, Warangal District, registered for the offences punishable under Section 498-A of I.P.C., and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

On a complaint given by the 2nd respondent/*de facto complainant*, who is the wife of the 1st petitioner/A-1, a case in Crime No.175 of 2015 was registered against the petitioners/A-1 to A-4 for the aforesaid offences by the Police, Jangaon. The allegations in the complaint are that the marriage of the 2nd respondent/*de facto complainant* with the 1st petitioner/A-1 took place on 24.06.2012 and at the time of marriage her father had given an amount of Rs.5.00 lakhs cash, 20 tulas of gold ornaments apart from household articles worth Rs.1.00 lakh. After the marriage, the 2nd respondent/*de facto complainant* joined the company of the 1st petitioner/A-1 and they lived happily for a period of one and half year. Subsequently, the petitioners/A-1 to A-4 started harassing her both mentally and

physically and demanded her to get additional dowry from her parents. After completion of investigation, the police filed charge sheet, which was taken cognizance as C.C.No.424 of 2015 and the same is pending before the Principal Judicial Magistrate of First Class, Jangaon.

Heard learned Counsel for the petitioners/A-1 to A-4, learned Additional Public Prosecutor appearing for the 1st respondent/ State, learned Counsel appearing for the 2nd respondent/*de facto* complainant and perused the record. .

Learned Counsel for the petitioners/A-1 to A-4 would submit that due to intervention of elders, the matter has been settled amicably and the 1st petitioner/A-1 and the 2nd respondent/*de facto* complainant have filed F.C.O.P.No.1062 of 2016 before the Additional Family Court, Ranga Reddy District at Malkajgiri, under Section 10-A of the Indian Divorce Act, for grant of divorce by mutual consent. By an order, dated 31.12.2016, the learned Family Judge, granted divorce by dissolving the marriage between the 1st petitioner/A-1 and 2nd respondent/*de facto* complainant. It is also submitted that once the marriage was dissolved and the relationship between the 1st petitioner/A-1 and the 2nd respondent/ *de facto* complainant is ceased, no purpose would be served in continuing the

proceedings in C.C.No.424 of 2015. In support of the said submission, he relied on the judgment of the Apex Court in *Ruchi Agarwal v. Amit Kumar Agrawal and others*¹.

Learned Counsel appearing for the 2nd respondent/*de facto* complainant has categorically admitted about the filing of mutual divorce petition and also granting of divorce.

A perusal of the record reveals that the 1st petitioner/A-1 and the 2nd respondent/*de facto* complainant, have filed F.C.O.P.No.1062 of 2016, under Section 10-A of the Indian Divorce Act, before the XVI-Additional District and Sessions Judge-cum-XVI-Additional Metropolitan Sessions Judge-cum-III-Additional Family Judge, Ranga Reddy District at Malkajgiri, for grant of decree of divorce by mutual consent. In the said F.C.O.P., it is clearly stated that the matter has been amicably settled between the parties and the 1st petitioner/A-1 agreed to pay Rs.21.00 lakhs to the 2nd respondent/*de facto* complainant towards full and final settlement and permanent alimony and she also agreed to withdraw M.C.No.19 of 2015 and also C.C.No.424 of 2015 filed by her. A perusal of the material on record would show that an amount of Rs.10.00 lakhs has been paid to the 2nd respondent/*de facto* complainant by way of two

¹ (2005) 3 SCC 299

demand drafts bearing No.213907, dated 21.03.2016, D.D.No.398132, dated 26.04.2016, drawn on State Bank of Hyderabad, Macha Bollaram Branch and on the date of filing the evidence affidavit ie., on 28.11.2016, remaining amount of Rs.11.00 lakhs has been paid to the 2nd respondent/*de facto* complainant vide D.D.No.431611, dated 11.11.2016 for Rs.5.00 lakhs, D.D.No.005052, dated 23.11.2016 for Rs.6.00 lakhs, drawn on Andhra Bank, Dubbaka Branch and the 2nd respondent/*de facto* complainant has acknowledged to receive the said amount of Rs.21.00 lakhs and the copies of the said demand drafts were marked as Ex.A6 in the said F.C.O.P. After considering the evidence of the 1st petitioner/A-1 and the 2nd respondent/*de facto* complainant, the learned III-Additional Family Judge, Ranga Reddy District, Malkajgiri, allowed the said F.C.O.P. on 31.12.2016 and granted a decree of divorce by dissolving the marriage between them.

In Ruchi Agarwal v. Amit Kumar Agrawal and others case (1 supra), the Apex Court observed as under:

“6. From the above narrated facts, it is clear that in the compromise petition filed before the Family Court, the appellant admitted that she has received Stridhan and maintenance in lump sum and that she will not be entitled to maintenance of any kind in future. She also

undertook to withdraw all proceedings civil and criminal filed and initiated by her against the respondents within one month of the compromise deed which included the complaint under Sections 498A, 323 and 506 IPC and under Sections 3 and 4 of Dowry Prohibition Act from which complaint this appeal arises. In the said compromise, the respondent-husband agreed to withdraw his petition filed under Section 9 of the Hindu Marriage Act pending before the Senior Judge, Civil Division, Rampur and also agreed to give a consent divorce as sought for by the appellant.

7. It is based on the said compromise the appellant obtained a divorce as desired by her under Section 13(B) of the Hindu Marriage Act and in partial compliance of the terms of the compromise she withdrew the criminal case filed under Section 125 of the Criminal Procedure Code but for reasons better known to her she did not withdraw that complaint from which this appeal arises.

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9. In view of the above said subsequent events and the conduct of the appellant, it would be an abuse of the process of the court if the criminal proceedings from which this appeal arises is allowed to continue. Therefore, we are of the considered opinion to do complete justice, we should while dismissing this appeal also quash proceedings."

In view of the observations made by the Apex Court in the above referred case and having regard to the amicable settlement between the parties and 1st respondent/de facto complainant has already received the settlement amount, I am of the considered view that continuation of criminal proceedings against the petitioners/A-1 to A-4 is nothing but an abuse of the process of Court and that the powers under Section 482 Cr.P.C. have to be exercised in the present case.

For the aforementioned reasons, the Criminal Petition is allowed and the proceedings in C.C.No.424 of 2015 on the file of the Principal Judicial First Class Magistrate, Jangaon, Warangal District, against the petitioners/A-1 to A-4 for the offences punishable under Section 498-A of I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act, 1961, are hereby quashed.

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

JUSTICE G.SRI DEVI

02.03.2020
gkv/Gsn