

HONOURABLE JUSTICE G.SRI DEVI

CRIMINAL PETITION No. 12642 of 2018

ORDER:

The present Criminal Petition is filed by the petitioners/ A-2 to A-6, under Section 482 of Cr.P.C., seeking to quash the proceedings in C.C.No.4664 of 2018 on the file of the XIV Metropolitan Magistrate, Cyberabad at L.B.Nagar. A charge sheet came to be filed against the petitioners and another for the offences punishable under Sections 498-A of I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

The averments in the charge sheet are that accused No.1 is the husband of the 3rd respondent/ complainant and accused Nos.2 and 3 are the mother and father and accused Nos.4 and 5 are the brothers of accused No.1 and accused No.6 is the family friend of accused Nos.1 to 5. The marriage of the 3rd respondent/ complainant with accused No.1 was performed on 04.08.2012 and at the time of marriage, her parents gave Rs.8.00 lakhs net cash, house articles worth Rs.2.00 lakhs. It is alleged that since from the date of marriage, accused Nos. 2 to 5 have been insulted and abused the 3rd respondent/ complainant, assaulted her and also pressed her neck. After three weeks of their marriage, accused No.1 alone went to London and the 3rd respondent/ complainant was in her marital home for one year and during that period she was subjected to harassment. On the occasion of 1st marriage anniversary, accused No.1 came from London and two weeks

thereafter both of them went to London, where accused No.1 forced her to do job, otherwise demanded to go to India. In the month of November, 2015, the complainant gave birth to a female child and accused Nos.2 and 3 came to London and harassed her. On the occasion of 1st birthday of the child, all of them came to India and at that time accused No.6 was at her in-laws house and used to move closely with accused No.1. On the instigation of accused Nos.2 to 5, accused No.1 used to harass the 3rd respondent/ complainant. On 14.11.2017 accused No.1 sent the 3rd respondent/ complainant and her daughter to India and on 17.11.2017 he came to India. Accused Nos.1 to 5 harassed her and did not allow her to go to her parents' house and they have given only one hour time to meet her parents. Due to fear of life, the 3rd respondent/ complainant did not return to her in-laws house. On 22.11.2017 at about 8.30 p.m., accused Nos.1, 3 and 5 came to her parents' house and demanded her passport and passport of her daughter and assaulted the father of the 3rd respondent/ complainant and also abused them in the bazaar.

Heard the learned Counsel for the petitioners/ A-2 to A-6, learned Additional Public Prosecutor for the 1st respondent-State and the learned Counsel for the 3rd respondent/ *de facto* complainant and perused the record.

Learned Counsel for the petitioners/ A-2 to A-6 would submit that the petitioners have nothing to do with the family of accused No.1 and since accused No.1 and the 3rd respondent/ complainant

have stayed in London, question of harassing her for dowry would not arise as they are staying in India. He further submits that there are no specific allegations against the petitioners/ A-2 to A-6 and only for the purpose of extracting money on the instigation of her parents and family members, the 3rd respondent/ complainant filed the present complaint.

Learned Counsel for the 3rd respondent/ complainant reiterating the contents in the complaint, would submit that the truth or otherwise of the allegations can only be decided during the course of trial.

As seen from the allegations in the complaint, it reveals that there are no specific allegations against the petitioners/ A-4 to 6, except the bald and general allegations that the petitioners/ A-4 to A-6 harassed the 3rd respondent/ complainant. Since all the allegations are attributed against accused Nos.1 to 3 only, the proceedings in C.C.No.4664 of 2018 on the file of the XIV Metropolitan Magistrate, Cyberabad at L.B.Nagar, against the petitioner Nos.3 to 5/ A4 to A-6 are liable to be quashed.

Insofar as the petitioner Nos.1 and 2/ A-2 and A-3 are concerned, on perusal of the charge sheet and the material in support of the same, there are specific allegations against them that after the birth of the child, they went to London and where they harassed the 3rd respondent/ complainant. Therefore, this Court does not find it to be a case which can be determined or gone into in an application under Section 482 Cr.P.C. No such

ground appears to be available to them on the basis of which the impugned charge sheet can be quashed going by the settled law in *R.P.Kapur v. State of Punjab*¹; *State of Haryana v. Bhajan Lal*²; *State of Bihar v. P.P.Sharma*³ and *Zandu Pharmaceutical Works Limited v. Mohd. Saraful Haque and another*⁴. Hence, the prayer for quashing the proceedings in C.C.No.4664 of 2018 on the file of the XIV Metropolitan Magistrate, Cyberabad at L.B.Nagar, insofar as the petitioner Nos.1 and 2/ A-2 and A-3 are refused.

Accordingly, the Criminal Petition is allowed in part. The proceedings in C.C.No.4664 of 2018 on the file of the XIV Metropolitan Magistrate, Cyberabad at L.B.Nagar, against the petitioner Nos.3 to 5/ A4 to A-6 are hereby quashed. The Criminal Petition insofar as the petitioner Nos.1 and 2/ A-2 and A-3, is dismissed.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE G. SRI DEVI

19.02.2020
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¹ AIR 1960 SC 866

² (1992) SCC (Cr.) 426

³ (1992) SCC (Cr.) 192

⁴ (2005) SCC (Cr.) 283