

HON'BLE SRI JUSTICE K.SURENDER
CRIMINAL PETITION No.1301 OF 2020

ORDER:

1. The petitioners are A3 to A6, questioning their implication in the charge sheet filed for the offence under Sections 498-A, 406, 506 of IPC and Sections 4 and 6 of Dowry Prohibition Act.
2. The 1st petitioner is the father of A1, 2nd petitioner is sister of A1, 3rd and 4th petitioners are brothers of A1.
3. The *defacto* complainant/2nd respondent is a Law Graduate working in Bank of Baroda and posted at Pune at the time of marriage. A1 was a co-pilot in Air India and later joined Spice Jet. Both met as their profiles were posted on website 'shaadi.com'. Engagement was performed on 22.10.2015 and the marriage was performed on 13.07.2016. At the time of marriage, there was demand by A1 to A3 to give a flat to A1. Both A1 and the *defacto* complainant lived together in a flat near Raj Bhavan, Hyderabad till 29.08.2017. During that time, A1 and A2 used to pick up fights on trivial issues with the *defacto* complainant and taunt her stating that he did not get enough dowry and if A1 was married to someone else, they would have got more dowry. The petitioners also asked for a car for A1's purpose. It is alleged that A1 in a fully drunken

condition abused the *defacto* complainant on 08.07.2017 for not getting gifts for his birthday on 09.07.2017. On 09.07.2017, all these petitioners including A1 and A2 started pestering the *defacto* complainant for gifts. A2 and A3 also demanded for arranging Rs.5.00 lakhs for payment fee for A6/4th petitioner for aviation course. However, Rs.1,40,000/- was arranged by the *defacto* complainant and the petitioners were not happy with the said arrangement. On 28.08.2017, A1 demanded an amount of Rs.15,00,000/-, failing which, the *defacto* complainant will be harassed. Since the amount was not given, petitioners started calling family and friends and maligned the character of *defacto* complainant. On 12.09.2017, legal notice was received by 2nd Respondent, which was sent by A1 alleging that the *defacto* complainant was acting cruelly against A1 and others. However, A1 continued harassing the *defacto* complainant for giving Rs.15.00 lakhs which was demanded. Having no other option, the *defacto* complainant filed complaint on 26.08.2019. After lodging of the complaint, A1 was threatening to withdraw the cases and also abused her in filthy language.

4. The *defacto* complainant studied at Pune, Maharashtra and after graduating law, she joined as Law Officer at Hyderabad. A1 was a pilot residing in Hyderabad. Petitioners are residents of Kanpur. The marriage was performed on 13.07.2016 and after marriage, A1 and *defacto* complainant lived in a flat near Raj Bhavan, Hyderabad up to 29.08.2017. The *defacto* complainant never stayed along with the petitioners except visiting Kanpur once for Diwali and these petitioners have met for house warming ceremony. The present complaint was filed after A1 served a legal notice to the *defacto* complainant on 12.09.2017. Thereafter, after receipt of legal notice dated 12.09.2017, a complaint was filed in the mediation centre on 14.09.2017 and the present complaint was filed nearly after two years i.e., on 26.08.2019.

5. In the entire complaint and also the investigation done by the police, it is nowhere mentioned that the *defacto* complainant stayed with any of these petitioners at Kanpur over a period of time except on one or two occasions briefly. All the allegations are against A1 regarding demand for additional dowry and that he was supported by these petitioners. Arranging money to A6 though not substantiated by any documentary evidence, even assuming such

an amount was arranged, it was for education purpose and it cannot be said to be additional dowry. No details of any jewelry being entrusted or taken away by any of these petitioners are mentioned. Even after the complaint and legal notice during September, 2017 and thereafter till the filing of the complaint two years later, these petitioners, even according to the complainant, had nothing to do with the *defacto* complainant.

6. In **Kahkashan Kausar v. State of Bihar** (2022 SCC OnLine SC 162), the Honourable Supreme Court held that allowing prosecution in the absence of clear allegations against the in laws would simply result in an abuse of the process of law and that there cannot be any criminal case on the basis of false and omnibus allegations.

7. On the basis of bald allegations of abetting A1 for demand of dowry or allegations made against these petitioners regarding demand for purchase of property or jewellery, when all these petitioners are residents of Kanpur, the allegations appear to have been made only to implicate these petitioners. For the said reasons and also in view of the observations of the Hon'ble Supreme Court in **Kahkashan Kausar v. State of Bihar's case**, continuance of

proceedings against these petitioners is nothing but to abuse of process of the court.

8. In the result, the proceedings against these petitioners/A3 to A6 in CC No.18418 of 2019 on the file of XIII Additional Chief Metropolitan Magistrate are hereby quashed.

9. Accordingly, the Criminal Petition is allowed. There shall be no order as to costs.

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

Date: 22.11.2022
kvs

K.SURENDER, J

HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.1301 OF 2020

Date: 22.11.2022.

kvs