

HON'BLE SRI JUSTICE K. LAKSHMAN
CRIMINAL PETITION No.7235 OF 2020

ORAL ORDER:

Heard the learned counsel for the petitioners and learned Assistant Public Prosecutor appearing on behalf of respondent No.1, and perused the record. Despite service of notice, there is no representation on behalf of respondent No.2 - *de facto* complainant.

2. The present criminal petition is filed by the petitioners to quash the proceedings in S.C. No.44 of 2021 pending on the file of II Additional District and Sessions Judge, Sangareddy against them.

3. The petitioners herein are arraigned as accused Nos.1 to 4 in the aforesaid S.C. The offence alleged against them is under Section - 304B of IPC.

4. Perusal of the record would reveal that the marriage of petitioner No.1 herein - accused No.1 with the deceased - Shrilatha on 26.03.2016. Thereafter, matrimonial disputes arose between them. Respondent No.2, the mother of the deceased, in the complaint as well as in the statement recorded under Section - 161 of the Cr.P.C. specifically made certain allegations against all the petitioners herein. During the course of investigation, the Investigating Officer has

recorded the statements of respondent No.2 as LW.1, mother of the deceased, elder brother of the deceased as LW.2, elder sister of the deceased as LW.3, elder brothers-in-law of the deceased as LWs.4 and 5 and *panch* witnesses as LWs.6 and 7. Basing on the said statements only, the Investigating Officer has laid the charge sheet.

5. As per the charge sheet, the allegations levelled against the petitioners herein are that LW.1 performed the marriage of her deceased daughter with petitioner No.1 by providing 80 tolas of gold and net cash of Rs.28.00 lakhs as dowry. After the marriage, the deceased and petitioner No.1 led their conjugal life happily for about one year at Kukatpally. Later, accused No.1 left the deceased with accused Nos.2 and 3 at Kukatpally and went to Bangalore to attend job and used to visit Kukatpally occasionally. After two years, accused No.1 returned to Kukatpally and shifted his family at Villa No.460, Symphony Park Homes at Patancheru. Since then, the petitioners herein have started harassing the deceased mentally for additional dowry. They also insulted her saying that they belong to royal family and she belonged to lower family. The deceased informed about the harassment and insult meted out by the petitioners to her mother over phone. Then, LWs.1 and 2 convinced the

petitioners herein several times, but they did not change their attitude and continued their harassment towards the deceased and demanded her to get additional dowry. Due to their unbearable harassment, the deceased committed suicide by hanging to ceiling fan with a sari at the aforesaid Villa. Thus, the petitioners herein have committed the aforesaid offence.

6. Learned counsel for the petitioners herein would submit that there are no allegations against the petitioners herein with regard to the demand of dowry at the time of marriage, and there is no details, such as the amount of dowry demanded, date and place etc., were not mentioned specifically in the complaint or in their statements recorded under Section - 161 of the Cr.P.C. Therefore, according to her, the contents of the charge sheet lack the offence alleged. In support of her contentions, she has relied on the decisions in **Geeta Mehrotra v. State of Uttar Pradesh**¹; **Preeti Gupta v. State of Jharkhand**²; **Mahesh Kumar v. State of Haryana**³; **Chunduru Siva Ram**

¹. (2012) 10 SCC 741

². (2010) 7 SCC 667

³. (2019) 8 SCC 128

Krishna v. Peddi Ravindra Babu⁴ and Adapa Lovaraju Kumar v. The State of A.P.⁵

7. On the other hand, learned Assistant Public Prosecutor, would submit that *prima facie*, there are specific allegations against all the petitioners herein which are serious in nature and, therefore, he requested to dismiss the petition.

8. Perusal of the record would reveal that *prima facie*, there are specific allegations against the petitioners herein which are serious in nature. Further, the defences taken by the petitioners herein are triable issues which they have to take before the trial Court and it is for the trial Court to consider the same. The defences issues cannot be considered in a petition under Section - 482 of the Cr.P.C. as held by the Hon'ble Supreme Court in **Kamal Shivaji Pokarnekar v. The State of Maharashtra⁶**, wherein the Apex Court has categorically held that quashing criminal proceedings was called for only in a case where complaint did not disclose any offence, or was frivolous, vexatious, or oppressive. If allegations set out in complaint did not constitute offence of which cognizance had been taken by Magistrate,

⁴. (2009) 11 SCC 203

⁵. (2018) 2 ALD (Crl) 847

⁶. AIR 2019 SC 847

it was open to the High Court to quash the same. It was not necessary that, a meticulous analysis of case should be done before trial to find out whether the case would end in conviction or acquittal. If it appeared on a reading of the complaint and consideration of allegations therein, in light of the statement made on oath that the ingredients of the offence are disclosed, there would be no justification for the High Court to interfere. The defences that might be available, or facts/aspects which when established during trial, might lead to acquittal, were not grounds for quashing a complaint at the threshold. At that stage, the only relevant question was whether averments in the complaint spell out ingredients of a criminal offence or not. The Court has to consider whether complaint discloses any *prima facie* offences that were alleged against the respondents. Correctness or otherwise of the said allegations has to be decided only during trial. At the initial stage of issuance of process, it was not open to Courts to stifle proceedings by entering into merits of the contentions made on behalf of the accused. Criminal complaints could not be quashed only on the ground that, allegations made therein appear to be of a civil nature. If ingredients of offence alleged against

Accused were *prima facie* made out in complaint, criminal proceeding shall not be interdicted.

9. In **Skoda Auto Volkswagen India Private Limited v. The State of Uttar Pradesh**⁷, the Apex Court referring to the earlier judgments rendered by it has categorically held that the High Courts in exercise of its inherent powers under Section - 482 of Cr.P.C has to quash the proceedings in criminal cases in rarest of rare cases with extreme caution.

10. In **Geeta Mehrotra**¹, there are no allegations against the appellants therein, the brother and sister of the husband of complainant except casual reference of their names. In the said context, the Apex Court observed that mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them. Whereas, in the case on hand, it appears there are specific allegations made against the petitioners herein with regard to their involvement in commission of offences. Therefore, the said decision is not helpful to the case of the petitioners herein.

⁷. AIR 2021 SC 931

11. In **Preeti Gupta**², the Apex Court held that allegations to be scrutinized with great care and circumspection, especially against husband's relatives who were living in different cities and never visited or rarely visited the matrimonial home of the complainant. In the case on hand, the deceased was residing with her husband and her parents-in-law in a common house, while the sister-in-law of the deceased was residing in a different home, but within the same Community. Therefore, the said decision is inapplicable to the facts of the present case.

12. In **Mahesh Kumar**³, after completion of investigation, the Investigating Officer filed charge sheet against the accused therein and the same was taken on file for the offence under Section - 304B of IPC. The trial was conducted and the trial Court found the husband and mother-in-law guilty of the aforesaid offence only. In the appeal, the High Court acquitted the mother-in-law of the aforesaid offence, while reduced the sentence of imprisonment imposed on the husband. Challenging the same, the husband preferred the appeal before the Apex Court. In the case on hand, the trial yet to be commenced, and truth or otherwise of the allegations leveled against the petitioners are to be tested during trial only. Therefore, the said decision is also not

helpful to the facts of the present case and so also **Adapa Lovaraju Kumar**⁵.

13. The judgment in **Chunduru Siva Ram Krishna**⁴ is also not applicable to the facts of the case as offences therein are in relation to Sections - 406, 420 and 424 read with 34 of IPC.

14. In view of the above discussion, there are triable issues which have to be considered and decided by the trial Court after full-fledged trial. Therefore, the petitioners herein failed to make out any ground to quash the proceedings in the aforesaid S.C. and therefore, the present criminal petition is liable to be dismissed. The decisions relied upon by the learned counsel for the petitioners are not helpful to their case as the facts in the said decisions are different to the facts of the present case.

15. The present Criminal Petition is accordingly dismissed.

As a sequel, the miscellaneous petitions, if any, pending in the Criminal Petition shall stand closed.

13th June, 2022
Mgr

K. LAKSHMAN, J