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Crl.O.P.No. 26211 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No. 26211 of 2014

and

M.P.Nos.1, 3 & 4 of 2014

1. Sunitha Venkatram
2. Venkatram Akula
3. Kalpana Venkatram

.... Petitioners

Vs

1. The State
Represented by
Inspector of Police,
W-22 All Women Police Station,
Mylapore, Chennai – 600 004.

2. Divya Rayapati

.... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in C.C.No.6147 of 2013 pending on the file of the XVIII Metropolitan Magistrate, Saidapet and quash the same.

For Petitioners

: M/s.S.P.Arthi

For R1

: Mr.L.Baskaran

Government Advocate (Crl.Side)

For R2

: Mr.T.Gowthaman

Senior Counsel

for Mr.V.Gokula Krishnan



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ORDER

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This Criminal Original Petition has been filed to quash the proceedings in C.C.No.6147 of 2013 pending on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai.

2. The case of the prosecution is that the first accused got married to the defacto complainant on 25.11.2012. The first accused is a lawyer, practicing in USA. The defacto complainant is working in India for the Company based in USA. The first accused and his family members are residents of USA. Even before marriage, they demanded to conduct the marriage ceremony in a grand manner. Therefore, her parents spent a sum of Rs.4,10,00,000/- for the marriage and other connected functions. Thereafter, they demanded very huge dowry from the defacto complainant. When it was denied by the parents of the defacto complainant, the accused persons tortured her and harassed to the core. Hence, the complaint.

3. On receipt of the complaint, the first respondent registered a FIR in Crime No.6 of 2013 for the offences under Sections



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498A and 406 of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.6147 of 2013 on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai.

4. The learned counsel appearing for the petitioners would submit that there are totally four accused in which, the petitioners are arrayed as A2 to A4. All the petitioners are American Citizens and no offence has been made out by the petitioners. The crux of the complaint is that there was a demand of dowry followed by harassment and cruelty committed by the petitioners. Further, they had enriched gifts given by the defacto complainant. Therefore, the averments contained in the complaint is baseless and unfounded. The only motto of the defacto complainant is to harass the petitioners by making false allegations of demand of dowry to extract money from the petitioners. Apart from the present proceedings, the defacto complainant also initiated several proceedings as against the petitioners and her husband and she lodged a complaint before the Protection Officer, District Social Welfare Office, Chennai under the Domestic Violence Act. She also filed a suit for



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permanent injunction in respect of the petitioners property in
O.S.NO.246 of 2013 on the file of the Family Court, Chennai.

5. The learned counsel further submitted that already the first accused filed a petition for declaration declaring that the marriage solemnized between the first accused and the second respondent is null and void. It was allowed. Therefore, no charge cannot be sustained for the offence punishable under Section 498A of IPC, since already the marriage between the first accused and the defacto complainant itself is declared as null and void.

6. Per contra, the learned Senior Counsel appearing for the second respondent would submit that there are specific allegations as against all the petitioners in order to attract the offence under Sections 498A and 406 of IPC. Though no offence is registered by the first respondent under the Dowry Prohibition Act, there are incriminating evidence to attract the offence under the Dowry Prohibition Act. Therefore, before the Trial Court based on the evidence, the petitioners are liable to be charged for the offence under the Dowry Prohibition Act.



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The grounds raised by the petitioners are mixed question of facts and it cannot be considered by this Court that too under Section 482 of Cr.P.C.

7. The learned Government Advocate (CrI.Side) appearing for the first respondent would submit that through the statement recorded from the witnesses, after the marriage the accused persons demanded huge dowry from the defacto complainant for purchasing a new house at California and insisted to give her share of the property and money. They further demanded to give Rs.2 Lakhs to A1's aunty and asked defacto complainant's father for a sum of Rs.20,000 USD. Therefore, there are specific allegations to attract the offences under Sections 498A and 406 of IPC.

8. Heard the learned counsel appearing on either side and perused the materials available on record.

9. There are four accused, in which the petitioners are arrayed as A2 to A4. The first accused got married with the second respondent. Due to misunderstanding between them, they got separated.



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Admittedly, the petitioners are US citizens and are living in USA. The couple got married on 25.11.2012. After marriage, the first accused and the second respondent stayed in a hotel at Chennai and thereafter, they went for their honeymoon to New Zealand. Therefore, the couple never lived with the petitioners herein. Hardly, they lived together only for 1 ½ months.

10. A perusal of the statements recorded from the defacto complainant and others shows that the defacto complainant mainly alleged that the petitioners demanded huge dowry and harassed her to bring the same. Even then, no charge was framed for the offence under the Dowry Prohibition Act. On investigation, the first respondent found that there were no material to charge the petitioners for the offence under the Dowry Prohibition Act. Therefore, the entire allegations are bald and vague. It is relevant to extract the provision under Section 498A of IPC. This provision was inserted to bring cruelty committed upon a woman by her husband and her in-laws by facilitating rapid State intervention. However, it is equally true that in recent times, matrimonial litigation in the country has also increased significantly and there is a greater



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disaffection and friction surrounding the institution of marriage, now more than ever. This has resulted in an increased tendency to employ provisions such as Section 498-A of IPC as instruments to settle personal scores against the husband and his relatives.

11. In this regard, the learned counsel appearing for the petitioners relied upon the Judgment reported in **(2022) 6 SCC 599** in the case of ***Kahkashan Kausar Alias Sonam and others Vs. State of Bihar and others***, in which the Hon'ble Supreme Court of India held as follows:-

13. This Court in its judgment in Rajesh Sharma and Ors. Vs. State of U.P. & Anr.4, has observed:-

“12. Section 498-A was inserted in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife particularly when such cruelty had potential to result in suicide or murder of a woman as mentioned in the statement of Objects and Reasons of the Act 46 of 1983. The expression 'cruelty' in Section 498A covers conduct which may drive the woman to commit suicide or cause grave injury (mental or physical) or danger to life or harassment with a view to coerce her to meet unlawful demand. It is a matter of serious concern that large number of cases continue to be filed under already referred to some of the statistics from the Crime Records Bureau. This Court had earlier noticed the fact that most of such complaints



are filed in the heat of the moment over trivial issues. Many of such complaints are not bona fide. At the time of filing of the complaint, implications and consequences are not visualized. At times such complaints lead to uncalled for harassment not only to the accused but also to the complainant. Uncalled for arrest may ruin the chances of settlement.”

13. Previously, in the landmark judgment of this court in *Arnesh Kumar Vs. State of Bihar and Anr.*⁵, it was also observed:-

“4. There is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A IPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-A IPC is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In a quite number of cases, bed-ridden grand-fathers and grand-mothers of the husbands, their sisters living abroad for decades are arrested.”

14.....

15. In *Geeta Mehrotra & Anr. Vs. State of UP & Anr.*⁷, it was observed:-

*“21. It would be relevant at this stage to take note of an apt observation of this Court recorded in the matter of *G.V. Rao vs. L.H.V. Prasad & Ors.* reported in (2000) 3 SCC 693 wherein also in a matrimonial dispute, this Court had held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all*



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family members had been roped into the matrimonial litigation which was quashed and set aside. Their Lordships observed therein with which we entirely agree that:

'12. ...There has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate the disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their cases in different courts'.

12. Thus, in order to attract the offence under Section 498A of IPC and there should be a case of continuous state of affairs of torture by one to another. In the case on hand, the petitioners were never living with the defacto complainant. Further, all the allegations are bald and vague and no specific allegation as against the petitioners to attract



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the offences under Section 498A and 406 of IPC. In fact, nothing was entrusted with the petitioners to attract the offence under Section 406 of IPC. The offence under Section 498A of IPC is applicable only to such a case where, the husband or the relative of the husband of a woman, subjects the said woman to cruelty. When the ingredients of the provision under Section 498A of IPC are present in a particular case, in that event, the person concerned, against whom the offence is alleged, would be tried in accordance with law, in a trial instituted against the accused and, if found guilty, the accused would be punished with imprisonment. In order to understand the meaning of the expression “cruelty” as envisaged under Section 498A of IPC, there must be such a conduct, on the part of the husband and relatives of the husband of a woman, which is of such a nature as to cause the woman to commit suicide or to cause grave injury or danger to life, limb or health whether mental or physical of the woman.

13. A perusal of the charge sheet reveals that there is no such allegation making out a prima-facie case to attract the offence under Section 498A of IPC. There is no allegation that there is any such



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conduct on the part of the petitioners which can be said to within the meaning of “cruelty” of such a nature, likely to cause the defacto complainant to commit suicide or cause injury of her life. Therefore, the offences under Section 498A of IPC is clearly not attracted as against the petitioners. Therefore, the present proceedings cannot be sustained and it is liable to be quashed.

14. In view of the above, the proceedings in C.C.No.6147 of 2013 pending on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai, is hereby quashed. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

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G.K.ILANTHIRAIYAN. J.

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To

1. The XVIII Metropolitan Magistrate,
Saidapet, Chennai.

2. The Inspector of Police,
W-22 All Women Police Station,
Mylapore, Chennai – 600 004.

3. The Public Prosecutor,
High Court, Madras.

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and
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