

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.589 OF 2021

ORDER:

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioner/A4 to quash C.C.No.4640 of 2020 on the file of XI Additional Metropolitan Magistrate at Kukatpally, Cyberabad. The offences alleged against him are under Sections 498-A, 506 of the Indian Penal Code and Sections 3 & 4 of the Dowry Prohibition Act, 1961.

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the respondent – State. Perused the record.

3. The 2nd respondent who is the wife of Accused No.1 filed a complaint stating that she was married to A1 on 19.08.2018 and dowry was also given to A1 at the time of marriage. After marriage she started living with her husband. Thereafter, A1-husband left to Newzealand. At that point of time, this petitioner and others started harassing the 2nd respondent mentally and physically for additional dowry. After three

months, the 2nd respondent also went to New Zealand and joined her husband. There, she found that A1 was not working and did not have any software job, but was doing odd jobs in restaurants. A1 quarreled with her and they were facing financial problems. Every day this petitioner, parents and sisters of A1 used to call A1 and listening to them A1 used to harass 2nd respondent physically and mentally. The 2nd respondent complained her mother, but A1 did not allow her to go back. However, with great difficulty on 27.09.2019, she returned back to India and since there was no positive response from her in-laws, she complained to Balanagar Police Station. The Police having received the complaint, investigated into the case and filed charge sheet for the offences under Section 498-A, 506 of the Indian Penal Code and Sections 3 & 4 of the Dowry Prohibition Act, 1961.

4. Learned Counsel appearing for the petitioner/A4 would submit that the petitioner is a student and was pursuing his studies and even according to the 2nd respondent, differences arose in New Zealand and allegations are leveled against the husband and that too, the said instances had taken place in

New Zealand, for the said reason, the proceedings against this petitioner against whom *omnibus* allegations are made, have to be quashed.

5. On behalf of respondents it was argued that it is specifically mentioned in the complaint, statement of the 2nd respondent that this petitioner and others used to call A1 and A1 in turn used to harass her. Further, while she was staying with her in-laws in India, prior to going New Zealand, the petitioner and others harassed her for additional dowry. For the said reason, the proceedings cannot be quashed and the petitioner has to face trial.

6. As seen from the allegations in the complaint and also the investigation done, it is mentioned that this petitioner along with others instigated A1-husband, who in turn harassed the 2nd respondent. No single instance is narrated wherein this petitioner was involved to infer cruelty meted out by this petitioner. On the basis of vague allegations that this petitioner had called up his brother and instigated him who in turn used to harass the 2nd respondent physically and mentally, would

not suffice to continue criminal proceedings against this petitioner.

7. In **Kahkashan Kausar @ Sonam and others v. State of Bihar**¹, the Hon'ble Supreme Court held that unless there are specific and distinct allegations against the accused, the proceedings can be quashed. Under Section 482 of Cr.P.C, the Court should be careful in proceeding against relatives who are roped in on the basis of vague and omnibus allegations.

8. The Hon'ble Supreme Court in the case of **Preeti Gupta v. State of Jharkhand**² held that the Courts have to scrutinize the allegations made with great care and circumspection, especially against husband's relatives who were living in different cities and rarely have visited or stayed with the couple.

9. The observations of the Honourable Supreme Court in **Kahkashan Kausar's case** are squarely applicable to the facts

¹ (2022) 6 SCC 599

² (2010) 7 Supreme Court Cases 667

of the present case wherein vague allegations of instigating A1, are leveled against the petitioner.

10. In the said circumstances, this Court deems it appropriate to allow the criminal petition.

11. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioner/A4 in C.C.No.4640 of 2020 on the file of XI Additional Metropolitan Magistrate at Kukatpally, Cyberabad, are hereby quashed.

Miscellaneous applications pending, if any, shall stand closed.

Date: 23.02.2023
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K.SURENDER, J

THE HON'BLE SRI JUSTICE K.SURENDER

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Dt. 23.02.2023

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