

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.4194 OF 2020

ORDER:

1. This Criminal Petition is filed seeking to quash the proceedings against the petitioners in C.C.No.1524 of 2020 on the file of Judicial First Class Magistrate at Kodad.

2. The 2nd respondent, who is the wife of A1 filed complaint stating that she was married to A1 and at the time of marriage, Rs.10.00 lakhs cash and 30 tulas of gold was given towards dowry. She lead marital life along with A1 for sometime. Thereafter, A1 started harassing her physically and mentally on trivial issues. The other family members, who are the parents-in-law and also the 1st petitioner/A6, who is distant relative of the father-in-law and the 2nd petitioner/A7 is also distant relative have together harassed her physically and mentally. She was sent out of the house on 14.10.2019. Having no other option, she started living with her parents. Basing on the said complaint, police filed charge sheet for the offence under Section 498-A of IPC r/w Section 34 of IPC and also Sections 3 and 4 of Dowry Prohibition Act.

3. Learned counsel appearing for the petitioners would submit that apart from the allegations that all the relatives have harassed

her physically and mentally, not even a single instance is narrated as to how these petitioners have harassed her. In support of his contention, he relied on the judgment of Hon'ble Supreme Court in the case of In **Kahkashan Kausar @ Sonam and others v. State of Bihar**¹, wherein it is held as follows:

“22. Therefore, upon consideration of the relevant circumstances and in the absence of any specific role attributed to the accused appellants, it would be unjust if the Appellants are forced to go through the tribulations of a trial, i.e., general and omnibus allegations cannot manifest in a situation where the relatives of the complainant's husband are forced to undergo trial. It has been highlighted by this court in varied instances, that a criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused, and such an exercise must therefore be discouraged.”

4. On the other hand, learned counsel appearing for the 2nd respondent/defacto complainant would submit that it is clearly mentioned in the complaint that these petitioners, who are relatives of her father-in-law also harassed her physically and mentally. The said averment will suffice to infer an offence under Section 498-A of IPC. Accordingly, petitioners have to undergo criminal trial. For the said reason, petition has to be dismissed.

5. As seen from the complaint and Section 161 Cr.P.C statement, the only allegation that is made by naming these petitioners is that they were also responsible for harassing her

¹ [(2022) 6 Supreme Court Cases 599]

physically and mentally. Apart from the said omnibus allegations, there is no instance or event that is narrated to state that these petitioners have at any point of time harassed the 2nd respondent/ *defacto* complainant.

6. Following the observations of the Hon'ble Supreme Court in **Kahkashan Kausar @ Sonam and others v. State of Bihar (supra)**, this Court deems it appropriate to quash the proceedings against these petitioners.

7. In the result, the proceedings against these petitioners/A6 and A7 in C.C.No.1524 of 2020 on the file of Judicial First Class Magistrate at Kodad are hereby quashed.

8. Accordingly, the Criminal Petition is allowed.

Miscellaneous applications pending, if any, shall stand closed.

K.SURENDER, J

Date: 10.02.2023
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Dt. 10.02.2023

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