

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**WEDNESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION NO: 10693 OF 2022

Between:

1. Smt. K.Vijayalakshmi, w/o Late Sudarshan, aged about 65 years, occ: Household
2. Kalvagadda Sridhar, S/o Late Sudarshan, aged 48 years, occ: Advocate
3. Kalvagadda Veeresh, S/o Late Sudarshan, aged about 39 years, occ Private Employee
4. Kalvagadda Latha, w/o Kalvagadda Sridhar aged about 40 years, occ Housewife
5. Kalvagadda Vandana, w/o Kalvagadda Veeresh aged about 35 years, occ Housewife

(All are r/o H.No. 16-1-334, Reddy Basthi Saidabad, Hyderabad.)

...PETITIONER/ACCUSED No.2 to 6

AND

1. The State of Telangana, through S.H.O., Saroonagar Women Police Station, Rachakonda Commissionerate, R.R.District, rep. by Public Prosecutor, High Court, Hyderabad.
2. Smt. Bathula Srilekha, d/o Bathula Srinivas Goud, aged about 30 years, occ Housewife r/o H.No. 5-6-693/1, Vanastalipuram, Hayathnagar, R.R.District.

...RESPONDENT/COMPLAINANTS

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to call for the records relating to the charge sheet in C.C.No.2637 of 2022 on the file of the V Addl. Metropolitan Magistrate, Cyberabad at L.B.Nagar, and quash the proceedings thereon.

I.A. NO: 1 OF 2022

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to grant stay of all further proceedings including the appearance of the petitioners in in C.C.No. 2637 of 2022 on the file of the V Addl. Metropolitan Magistrate, Cyberabad at L.B.Nagar, pending disposal of the main Criminal Petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri VEMPATI MALLIKARJUN SHASTRY, Advocate for the Petitioner and of the Additional Public Prosecutor (TG) on behalf of the Respondent No.1 and of Sri K. JAGADISHWAR REDDY, Advocate for the Respondent No.2

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.10693 OF 2022

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C., seeking to quash the proceedings in C.C.No.2637 of 2022, on the file of the V Additional Metropolitan Magistrate, Cyberabad at L.B.Nagar. The petitioners herein are arrayed as accused Nos.2 to 6 in the said case.

2. Respondent No.2 – *de facto* complainant filed a complaint against these petitioners and her husband – accused No.1, stating that her marriage with accused No.1 had taken place on 28.10.2020 and at the time of marriage dowry was given and the marriage was also performed in a grand manner. However, her husband/A1 did not participate in the sexual intercourse with her. Later, it was known that the petitioner was not potent. However, the husband and the petitioners herein started harassing for additional dowry. Both for the reasons of not disclosing regarding his physical incapacity to perform sexual intercourse and also for demanding additional dowry which was abated by these petitioners, a criminal complaint was filed. On the basis of the complaint, the police filed

charge sheet for the offences punishable under Sections 498A, 417, 323, 506 IPC and Sections 3 and 4 of Dowry Prohibition Act.

3. Heard learned counsel for the petitioners-accused Nos.2 to 6, learned counsel for respondent No.2 and learned Additional Public Prosecutor for the State and perused the record.

4. Learned counsel appearing for the petitioners would submit that Accused No.1 and respondent No.2 have settled their disputes and also entered into a Memorandum of Understanding on 05.07.2021 and in pursuance of the said agreement, all the gold articles and other silver items and clothes were returned to respondent No.2. As agreed, an amount of Rs.7,75,000/- was also paid. However, these petitioners are roped on the basis of omnibus allegations on the complaint and accordingly, prayed to quash the proceedings.

5. On the other hand, learned counsel for respondent No.2 would submit that though there was settlement arrived at, the husband was not adhering to the conditions and terms agreed upon in the Memorandum of Understanding.

6. As seen from the complaint, the main allegation is against accused No.1 stating that he has not disclosed about his impotency. Further as far as these petitioners are concerned, who are residing at different places, the only allegations against them is that they demanded for additional dowry. Further the allegation is that these petitioners knew about impotency of accused No.1 however, they suppressed prior to marriage.

7. The physical incapacity of accused No.1 has resulted in filing the present complaint. However, as far as these petitioners are concerned, who were already married by the time of the marriage of accused No.1 and respondent No.2 and they were living separately at Saidabad, however, in the very same building. The Hon'ble Supreme Court in **Kahkashan Kausar @ Sonam and others v. State of Bihar and others¹** and **Geeta Mehrotra and another v. State of Uttar Pradesh and another²**, held that the High Courts' under the inherent powers under Section 482 of Cr.P.C., to look into the implication of the family members of the husband and in the event of there being omnibus allegations, the High Court shall can intervene under the inherent powers to

¹ Criminal Appeal No.195 of 2022

² Criminal Appeal No.1674 of 2012

quash the proceedings. In the present case other than seeing that the petitioner is knew about the impotency of accused No.1 they were demanded additional dowry that are narrated by the respondent No.2. In the absence of any such specific instances to infer cruelty, the proceedings cannot go on, only on the said omnibus allegations as held by the Hon'ble Supreme Court in Kauser's case (supra). Hence, the proceedings against the petitioners are liable to be quashed.

8. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioners – accused Nos.2 to 6 in C.C.No.2637 of 2022 pending on the file of V Additional Metropolitan Magistrate at L.B.Nagar, are hereby quashed.

Miscellaneous applications pending, if any, shall stand closed.

SD/-MOHD SANAULLAH ANSARI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The V Additional Metropolitan Magistrate, Cyberabad at L.B Nagar
2. One CC to Sri. Vempati Mallikarjun Shastri, Advocate [OPUC]
3. Two CCs to The Public Prosecutor, High Court for State of Telangana, at Hyderabad [OUT]
4. One CC to Sri. K. Jagadishwar Reddy, Advocate, [OPUC]
5. Two CD Copies

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HIGH COURT

DATED:22/02/2023

ORDER

CRLP.No.10693 of 2022



ALLOWING THE CRIMINAL PETITION

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9/3/23
Hvt