HON'BLE SMT. JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION No. 10478 OF 2022

ORDER:

This petition is filed by the petitioners/accused Nos.2 to 4 to quash the proceedings against them in C.C.No.94 of 2022 on the file of the learned VIII Additional Chief Metropolitan Magistrate, Visakhapatnam, for the offences under Sections 498A, 420, 506 read with Section 34 of the Indian Penal Code (hereinafter referred to as 'the Code').

2. Case of the petitioners is thus:

(a) The petitioners have not committed any offence as alleged by the prosecution. They are unnecessarily dragged into this false case. There are no specific allegations or overt acts against the petitioners. All the allegations are directed against the accused No.1 only. Petitioners never lived along with accused No.1 and the de-facto complainant/respondent No.2. There is no truth in the allegations leveled against the petitioners. Only to harass the petitioners, respondent No.2 included their names. In the absence of any specific accusations against these petitioners, continuation of these proceedings is nothing but an abuse of the process of law.

3. Case of the prosecution is thus:

(a) On 31.05.2004, respondent No.2 married accused No.1, they lead marital life till 2006, accused No.1 insisted the respondent No.2 to register house in the name of his mother, he has used all the amounts of respondent No.2, stopped regularly coming to the house of respondent No.2 and then, upon enquiry respondent No.2 came to know that the accused No.1 was already married and had two children, and only to use the money of respondent No.2, who is working as Deputy Tahsildar, accused No.1 married her. When she informed about the same to the brothers of accused No.1 i.e., petitioner Nos.2 and 3/accused Nos.3 and 4, they also threatened her not to involve in the conjugal life of petitioner No.1/accused No.2 and accused No.1.

4. Heard Sri K.Jyothi Prasad, learned counsel for the petitioners and Smt. K..Priyanka Lakshmi, learned Assistant Public Prosecutor. No representation on behalf of respondent No.2.

5. Learned counsel for the petitioners would argue that absolutely there is no material to proceed further, even the charge sheet does not reveal any overt acts against the petitioners, ingredients of Section 498A, 420 and 506 are not attracting against the petitioners, they are no way concerned about the affairs of accused No.1 and respondent No.2, they had no knowledge about their marriage, they never involved in their issues and relied upon the judgment of the Hon'ble Apex Court in ***Geeta Mehrotra & Anr vs State Of U.P. &Anr***[1].

6. Per contra, learned Assistant Public Prosecutor argued that all the contentions raised by the learned counsel for the petitioners have to be considered during trial, there is material against the petitionersto proceed further.

7. As seen from the record, basing on the report of respondent No.2, a case in Crime No.1447 of 2021 is registered of the offences under Sections 498A, 420, 506 read with 34 IPC against the petitioners and accused No.1, and after completion of investigation, investigating officer laid charge sheet of the said offences, against the petitioners and accused No.1. Further, report of respondent No.2, charge sheet and 161 Cr.P.C statements reveal that respondent No.2 married accused No.1 on 31.05.2014, lead marital life till 2006 and in the year 2007 started harassing respondent No.2 both physically and mentally and later, she came to know that he already married, has two children.

[1](2012) 10 SCC 741

8. So far as allegations against the petitioner Nos.1 to 3 are concerned, absolutely there is no material against the petitioner No.1 except referring her name as wife of accused No.1, that too, in the charge sheet, and except mentioning that when respondent No.2 informed about the harassment made by the accused No.1 to his brothers/petitioner Nos.2 and 3/accused Nos.3 and 4, they threatened respondent No.2 not to involve in the marital life of accused No.1 and accused No.2, absolutely there is no material against the petitioners. At the same time, there are specific allegations against the accused No.1 and record clearly reveals that having married accused No.2, he also married respondent No.2, lead marital life, harassed her and committed the acts of cruelty. The allegations against accused No.1, including the circumstances surrounding the marriage and the alleged financial dealings, are matters for consideration by the trial Court. This Court does not express any opinion on the merits of those allegations. The present petition is confined to the proceedings against petitioners/ accused Nos.2 to 4.

9. In the judgment relied upon by the learned counsel for the petitioners, the Hon'ble Apex Court in ***Geeta Mehrotra & Anr vs State Of U.P. & Anr*** (supra), held at paragraph 20 thus:-

> "20. Coming to the facts of this case, when the contents of the FIR is perused, it is apparent that there are no allegations against Kumari Geeta Mehrotra and Ramji Mehrotra except casual reference of their names who have been included in the FIR but 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 overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding."

10. There can be no dispute that the settled principle under Section 482 of Cr.P.C is that inherent powers are to be exercised sparingly and with circumspection. At the same time, the Court is required to examine the allegations and the material collected during the investigation to ascertain

whether continuation of the proceedings would amount to an abuse of the process of law.

11. In this regard, it is to be noted that in ***Mahmood Ali vs The State Of Uttar Pradesh***[2]***,*** the Hon'ble Apex Court reiterated that, while considering the petition for quashing, the Court has to examine the attending circumstances emerging from the record and is not required to confine itself mechanically to the recital of the prosecution case. However, the provisions laid down in ***State of Haryana and Ors vs Ch. BhajanLal and Ors***[3]***,*** also indicate the recognized categories in which the inherent power maybe exercised, including the cases where the allegations, even if taken at face value, do not constitute an offence; where the uncontroverted allegations and material collected do not disclose the commission of an offence; or where the continuation of the proceedings would otherwise result in an abuse of the process of the Court. However, the power is not intended to conduct a meticulous appreciation of evidence or to determine truthfulness of disputed factual assertions at the stage of considering a petition for quashing.

12. Having regard to the totality of circumstances and the material placed before this Court coupled with the aforementioned judgments, this Court is of the considered view that the case thus fall within the categories warranting the exercise of inherent jurisdiction to quash the proceedings. The allegations and the material collected during the investigation did not disclose the prima facie case requiring adjudication by the trial Court.

13. **In the result**, this Criminal Petition is allowed, quashing the proceedings against the petitioners/accused Nos.2 to 4 alone in C.C.No.94 of 2022 on the file of the learned VIII Additional Chief Metropolitan Magistrate,

[2]2023 INSC 684
[3]AIR 1992 SC 604

Visakhapatnam, for the offences punishable under Sections 498A, 420, 506 read with Section 34 of the Code.

As a sequel thereto, pending miscellaneous petitions, if any, shall stand closed.

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SUNITHA GANDHAM, J

Date03.11.2026
MMK/ knl

HON'BLE SMT. JUSTICE SUNITHA GANDHAM

CRIMINLA PETITION No. 10478 OF 2022

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