

HON'BLE SRI JUSTICE A.SANTHOSH REDDY

CRL.P.Nos.6400 and 7242 of 2013

COMMON ORDER:

CrI.P.No.6400 of 2013 is filed by the petitioners/A-2 and A-4 under Section 482 Cr.P.C. to quash the proceedings in P.R.C.No.123 of 2013 on the file of IX Metropolitan Magistrate, Miyapur.

2. CrI.P.No.7242 of 2013 is filed by the petitioner/A-3 under Section 482 Cr.P.C to quash the proceedings in P.R.C.No.123 of 2013 on the file of IX Metropolitan Magistrate, Miyapur.

3. Since these two criminal petitions arose out of the same crime number and one P.R.C., they are being disposed of by way of common order.

4. The second respondent herein filed a private complaint before the Court of IX Metropolitan Magistrate at Miyapur alleging that her marriage with A-1 took place on 14.12.2006 at Gold Merchant Association Community Hall, Gandhi Bazaar, Ongole, Prakasham District. During the time of marriage, Rs.5.00 lakhs cash and 25 tulas of gold were given towards dowry to the accused. Since the day of marriage, in-laws started harassing the second respondent on one or other pretext and suspecting her fidelity. It is alleged that A-1

harassed the second respondent physically and mentally for additional dowry. The second respondent went to the house of her in-laws at Ongole during the month of February, 2007 for leading marital life. A-1 continued the harassment and used to come in drunken condition and used to undress her and beat her till early hours of the following day. On their demand, the father of the second respondent gave additional dowry of Rs.3.00 lakhs on 20.04.2007. A-3 husband of A-4 expressed his sympathy towards her and took her forcefully in his lap and tried to caress her, when the second respondent resisted and tried to run away, upon which A-3 told that entire family would support him. When she revealed the incident the entire family supported him and warned her that she has no option except to satisfy him and he tore her blouse. With great difficulty, the second respondent hit him with pestle and he sustained injuries. It is also alleged that the second respondent informed to A-1 and her father-in-law, they called A-3 and A-4 and all of them gagged her mouth and mercilessly beat her. Thereafter, the second respondent was brought by A-1 to Hyderabad on 28.02.2007 and left her at her parents house.

5. It is also alleged that the mother-in-law of the second respondent was insisting her to do all house-hold work and find fault with her deliberately and used to abuse her in filthy language. During the month of June, 2011, A-4 along with his cousin brother came to her residence and threatened with dire consequences if additional dowry is not given. On 16.03.2012 midnight her husband contacted to the father of the second respondent and threatened him with dire consequences if he does not convince his daughter to join him. Basing on the complaint referred, a case in crime No.203 of 2012 was registered for the offences punishable under Sections 498-A, 354 IPC and Sections 3 and 4 of Dowry Prohibition Act and after completion of investigation, the charge sheet was filed against the A-1 and the petitioners/A-2 and A-4 for the offences punishable under Sections.498-A IPC and Sections 3 and 4 of Dowry Prohibition Act and under Sections 498-A and 354 IPC and Sections 3 and 4 of Dowry Prohibition Act against A-3 and the same was numbered as PRC.No.123 of 2013 on the file of X Metropolitan Magistrate, Miyapur. Aggrieved by the same, the present Criminal Petitions are filed.

6. Heard Sri T.Pradyumna Kumar Reddy, learned Senior Counsel for the petitioners and learned Assistant Public Prosecutor for the first respondent-State. None represented the second respondent. Perused the material on record.

7. Learned Senior counsel for the petitioners submits that the petitioners are relatives of husband of the second respondent and they were residing in different places and she made all the allegations against her husband only except saying that A-3 touched her hand in the year 2007 and that too when her brief stay of two months in her husband's house and when she went to the house of A-3 to discuss the issue. Insofar as A-2 and A-4 are concerned, the learned Senior counsel for the petitioners submits there are no allegations against the petitioners/A-2 and A-4 except saying that they abused the second respondent in her brief stay of two months at her in-laws house that she is not cooking properly. Therefore, the continuation of proceedings against the petitioners/A-2 to A-4 without therebeing any material allegations satisfying the alleged offences and making the petitioners to undergo the rigor of trial, would amount to abuse of process of law and prayed to quash the proceedings.

8. Learned Senior Counsel relied on the following decisions:

1. Preeti Gupta v.State of Jharkhand¹
2. Geeta Mehrotra v.State of Uttar Pradesh²
3. K.Subba Rao v.State of Telangana³
4. Mirza Iqbal alias Golu v.State of Uttar Pradesh⁴
5. Kahkashan Kausar @ Sonam v.State of Bihar⁵

9. Learned Assistant Public Prosecutor submits that there is sufficient material to frame the charges for the alleged offences against the petitioners and the trial Court may be permitted to proceed with the case and as such, there are no merits in the petitions and the same may be dismissed.

10. A perusal of the allegations of the charge sheet would reveal that A-1 is the husband of the second respondent, A-2 is the mother of A-1. A-3 is the brother of A-1 and A-4 is the sister-in-law of A-1. The marriage of A-1 and the second respondent took place on 14.12.2006 at Gold Merchant Association Community Hall, Gandhi Bazaar, Ongole, Prakasham District. At the time of marriage, an amount of Rs.10.00 lakhs, 25 tolas of gold was demanded, but on negotiations dowry amount was reduced to Rs.5.00 lakhs and 25 tolas of gold. The father of the second respondent spent huge amount in the

¹ (2010) 7 Supreme Court Cases 667

² (2012) 10 Supreme Court Cases 741

³ (2018) 14 Supreme Court Cases 452

⁴ 2021 SCC Online SC 1251

⁵ 2022 SCC OnLine SC 162

marriage. It is further alleged that A-1 and the second respondent went to Tirupathi and returned to the house of the second respondent and thereafter, the accused started suspecting infidelity of the second respondent and used to beat her with belt. It is also alleged that the second respondent went to the house of in-laws at Ongole during the month of February, 2007 and A-1 continued harassment. It is alleged that the second respondent informed the first petitioner and others, but they did not take any steps. Further they demanded additional dowry. The father of the second respondent paid Rs.3.00 lakhs on 20.04.2007.

11. The main allegations against the A-3, who is the husband of A-4, is that he expressed sympathy towards her and took her forcibly in his lap and tried to caress her and the second respondent resisted and tried to run away and she informed the same to A-1 and her father- in-law and they called A-3 and A-4 and all of them gagged her mouth and mercilessly beat her and on 28.02.2007 A-1 left the second respondent at her parents house.

12. The allegations of the charge sheet coupled with the statements of the second respondent, her father and other witnesses reveal that there is only allegation against the petitioner/A-3 that he expressed

his sympathy towards the second respondent and caught hold her hand. She resisted the alleged incident occurred prior to 28.02.2007. If at all there is truth in the allegations of the second respondent, so far as A-3 is concerned, she being a software Engineer would not have kept quiet without taking any recourse from 12.06.2007 on which date the second respondent was alleged to have molested by the petitioner/A-3. . The said allegation *prima facie* do not make out or satisfy the essential ingredients of the alleged offence under Section 354 IPC and appears to have been made with an oblique motive.

13. Coming to the allegations made against the petitioners/A-2 to A-4 in fact, the learned Senior Counsel submitted that they are residents of Ongole, Prakasham District. Admittedly, in the complaint, it is alleged that the second respondent is not living with A-1 since 28.02.2007, on which date she was taken to her parents house. The only allegation made by the second respondent after she left to her parents house is that on 16.03.2012, A-1 called her and threatened her with dire consequences. It appears these allegations are *prima facie* appears to be made to implicate the petitioners probably to bring pressure on the family.

14. It would be relevant at this stage to take note of opt observation of the Hon'ble Apex Court in *G.V.Rao v.LHV Prasad* (2000) 3 SCC 693 and at para No.12 held as under:

“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.”

15. Coming to the facts of the present case, when the contents of charge sheet and the statements of the witnesses, F.I.R. are perused, it is apparent that all the main allegations are against A-1 for the alleged offences under Sections 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act, whereas the family members i.e. A-2 and A-4 who is mother and sister in law of A-1 appears to have been implicated by way of general and omni bus allegations and there is no specific and distinct allegations have been made as to the role played by them in the alleged offences. Insofar as, A-1 is concerned, the veracity of the

allegations made against him need not be examined by this Court, since he is not before this Court. However, as far as the petitioners are concerned, the allegations made against them being general and omnibus, do not warrant prosecution.

16. In Preeti Gupta (supra 1), the Hon'ble Apex Court held as under:

32. *“It is a matter of common experience that most of these complaints under [section 498-A](#) IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.*

37. *Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law.”*

In Mizra Iqbal Alias Golu (supra 4), the Apex Court held as under:

“ However, we deem it appropriate to add by way of caution that we may not be misunderstood so as to infer that even if there are allegations of overt act indicating the complicity of the members of the family named in the FIR in a given case, cognizance would be unjustified but what we wish to emphasise by highlighting is that, if the FIR as it stands does not disclose specific allegation against the accused more so against the co-accused specially in a matter arising out of matrimonial bickering, it would be clear abuse of the legal and judicial process to mechanically send the named accused in the FIR to undergo the trial unless of course the FIR discloses specific allegations which would persuade the court to take cognizance of the offence alleged against the relatives of the main accused who are prima facie not found to have indulged in physical and mental torture of the complainant wife.”

17. It is manifest from the judgments of the Apex Court relied on by learned senior counsel as cited above, the false implication of the relatives of the husband in matrimonial disputes basing on general and omnibus allegations, if left unchecked would result in misuse of the process of law. In the instant case, the relatives of A-1 i.e. A-2 to A-4 have been roped in on the basis of omnibus allegations and without any specific instances of their involvement in the alleged offences deserves to be quashed to avoid the rigor of undergoing trial.

18. For the aforesaid reasons, I am of the view that from the averments of the complaint, F.I.R., charge sheet and the statements of the witnesses apparently there is no sufficient to material *prima facie* to proceed against the petitioners /A-2 to A-4 for the alleged offences.

19. Therefore, this Court is of the view that continuation of the proceedings against the petitioners herein would certainly amount to abuse of process of law. It is, therefore, considered as fit cases to invoke the inherent powers of this Court under Section 482 Cr.P.C., and quash further proceedings against the petitioners/A-2 to A-4.

20. In the result, both the criminal petitions are allowed and the proceedings against the petitioners/A-2 to A-4 respectively in P.R.C.No.123 of 2013 on the file of IX Metropolitan Magistrate, Kukatpally at Miyapur, are hereby quashed. Miscellaneous petitions, if any, pending shall stand closed.

A.SANTHOSH REDDY,J

14.07.2022

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