

THE HON'BLE SRI JUSTICE K. SREENIVASA REDDY

CRIMINAL PETITION NO.237 of 2020

ORDER:-

This Criminal Petition is filed by the petitioners who are A2 to A5, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C'), to quash the proceedings in C.C.No.354 of 2019 on the file of the I Additional Magistrate of First Class, Yemmiganur.

2. By an order dated 03.9.2019 on filing of charge sheet by the police, the learned Magistrate has taken cognizance of the offences punishable under Sections 498-A of the Indian Penal Code, 1860 (IPC) and under Sections 3 and 4 of the Dowry Prohibition Act, 1961 (for short 'the D.P. Act') and issued summons to the Accused Nos.1 to 5 and it is numbered as C.C.No.354 of 2019.

3. Learned counsel for the petitioners contended that even accepting all the allegations in the charge sheet are true, still the offence under Sections 498-A IPC and 3 and 4 of the D.P. Act are not attracted against the petitioners for the reason that the allegations are leveled

only against A1 and that except omnibus accusations against the petitioners/A2 to A5, there is no other material to connect these petitioners with the crime.

4. Heard the learned counsel for the petitioners and the learned Assistant Public Prosecutor. Though notice is served on 2nd respondent, no representation is made on her behalf.

5. On perusal of the statement of the *de facto* complainant, it goes to show that her marriage with A1 was performed on 22.1.2015. Since her father who left the family and the petitioner No.1 were friends, the marriage has taken place. At the time of marriage, the petitioners 1 and 2 stated that A1 is doing MBA. It is further stated that A1 is also doing business in distribution/selling of Videocon dish TVs at Chennai City. At the time of marriage an amount of Rs.10 lakhs and gold ornaments were given to A1 and his family members towards dowry. After the marriage she joined the A1. A1 never treated her as his wife but treated her as maid servant. Thereafter she has come to know that

A1 is not MBA graduate and he studied only Intermediate and he is not doing any business as stated by the petitioners 1 and 2 herein. She was ill-treated by A1 and the same was informed by her to her uncles and aunts. But they suggested her to adjust with her husband/A1 with a hope that he will change his attitude. Petitioners 1 and 2 also ill-treated her and they instigated A1 to beat her. On instigation of petitioners 1 and 2, A1 used to beat her. When she became pregnant, the petitioners 1 and 2 suggested her to undergo test so to know the gender of the baby.

6. A perusal of the record goes to show that there are specific instances narrated against the petitioners 1 and 2 apart from A1 only. Specific instances have been mentioned against petitioners 1 and 2, wherein the petitioners 1 and 2 harassed the *de facto* complainant physically and mentally. A1 alleged to have harassed the *de facto* complainant at the instigation of petitioners 1 and 2. Truth or otherwise of the said allegations has to be decided during the course of trial. At this stage, this

Court is not inclined to go into the disputed questions of facts.

7. Insofar as the petitioners 3 and 4, who are the sister and brother of A1, are concerned, omnibus allegations are made against them that they harassed the *de facto* complainant. The petitioner No.3 is married and living at Bangalore and that the petitioner No.4 is also working elsewhere. There are no specific accusations against the petitioners 3 and 4. Except the omnibus allegations made against the petitioners 3 and 4, there is absolutely no other material to connect them with the present crime.

8. Learned counsel for the petitioners relied upon the judgment of the Hon'ble Apex Court in **Kahkashan Kausar @ Sonam Vs The State Of Bihar**, in Criminal Appeal No.195 of 2022, dated 08.02.2022, wherein it is held as follows;

18. "The above-mentioned decisions clearly demonstrate that this court has at numerous instances expressed concern over the misuse of [section 498A](#) IPC and the increased tendency of implicating relatives of the

husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them”.

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.”

9. A reading of the above judgment goes to show that time and again several married women with a view to harass the husband and his family members are making allegations against all the relatives of their husbands and roping them into the case. Going by the judgments of the Hon'ble Apex Court, it is true that petitioners 3 and 4 have been roped into the present case with a view to harass the accused family, though they are living elsewhere.

10. In view of the aforesaid facts and circumstances of the case and judgment placed by the learned counsel for the petitioners, this Court is of the opinion that continuation of proceedings against petitioners No.3 and 4 (A4 and A5) who are sister and brother of A1 who are living away from A1 would be nothing but abuse of process of law. Hence, this Court is inclined to quash the proceedings in C.C.No.354 of 2019 on the file of the I Additional Judicial Magistrate of First Class, Yemmiganur, only as against the petitioners No.3 and 4 (A4 and A5).

11. Accordingly, the Criminal Petition is partly allowed in respect of petitioners 3 and 4. Insofar as the petitioner Nos.1 and 2 is concerned because of disputed questions of facts are involved and the truth or otherwise of the allegations has to be decided during the course of trial, this petition is dismissed against them. However, considering the submission made by the learned counsel for the petitioners, since the petitioner No.1 is aged and petitioner No.2 is a woman, their presence is dispensed with before the trial Court. However, they shall appear before the trial Court whenever the learned Magistrate specifically directs for their appearance.

As a sequel, all the pending miscellaneous applications shall stand closed.

K. SREENIVASA REDDY,J

Date: 31.10.2022
GR

THE HON'BLE SRI JUSTICE K. SREENIVASA REDDY

CRIMINAL PETITION NO.237 of 2020

31.10.2022

GR