
(2022) 09 TEL CK 0045

High Court For The State Of Telangana:: At Hyderabad

Case No: Criminal Petition No. 2383 Of 2015

Chilamkurthi
Raghavamma Aruna,
Vijayawada 2 Othrs

APPELLANT

Vs

Chilamkurthy Lavanya
Janyavula Lavanya

RESPONDENT

Date of Decision: Sept. 14, 2022

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 155(2), 156(1), 482
- Indian Penal Code, 1860 - Section 354, 498A
- Dowry Prohibition Act, 1961 - Section 3, 4

Hon'ble Judges: A.Santhosh Reddy, J

Bench: Single Bench

Advocate: T Pradyumna Kumar Reddy

Final Decision: Allowed

Judgement

1. This criminal petition is filed under Section 482 Cr.P.C., to quash the proceedings against the petitioners/A-2 to A-4 in S.C.No.557 of 2014, on the

file of the Assistant Sessions Judge, Peddapalli, Karimnagar District.

2. Heard learned senior counsel for the petitioners-A-2 to A-4 and learned Assistant Public Prosecutor for the second respondent-State. None

represented the second respondent-de facto complainant. Perused the record.

3. Petitioner Nos.1 and 2/A-2 and A-3 are the parents of A-1 and petitioner No.3/A-4 is the sister of A-1. A-1 is the husband of the second

respondent and A-5 is the cousin of A-1.

4. The second respondent filed a complaint before Police, Godavarikhani I Town, alleging that the marriage between her and A-1 was performed on

16.05.2010 at Machilipatnam as per Hindu customs and traditions. At the time of marriage, the parents of complainant presented cash of Rs.10 lakhs,

three sovereigns of gold ornaments and Rs.50,000/- towards sister-in-law presentation (adapaduchu lanchanam) and also one acre of land in A-1, in

the presence of elders. A-1 was working as Deputy Manager in II Incline Mine, Godavarikhani. After marriage, they started their conjugal life at

Power House Colony, Godavarikhani and after some time, A-1 to A-3 started harassing her mentally and physically demanding her to get additional

dowry. A-1 threatened her that if she fails to bring additional dowry of Rs.10 lakhs, he would perform second marriage. A-1 caused enquiries about

her character and also harassed her by saying that she was having affairs with her colleagues. During the absence of A-1, A-1's cousin used to

visit their house and harassed her sexually by saying that he would look after her well if she cohabits with him which is common their family. She

informed the same to her husband, but he also supported his cousin and later she informed her ordeals to her parents by way of phone calls and

messages. On 26.03.2014, she came to know that A-1 filed a divorce case against her, though she was leading conjugal life with him by exaggerating

that she was living separately. Based on the said complaint, Police, Godavarikhani I Town registered a case in Cr.No.160 of 2014 for the offences

punishable under Sections 498-A, 354 IPC and Sections 3 and 4 of the Dowry Prohibition Act and took up investigation and after completion of

investigation, filed charge sheet against petitioners-A-2 to A-4 and others (A-1 & A-5). Aggrieved thereby, the present revision is filed by petitioners-

A-2 to A-4 to quash the proceedings.

5. Learned senior counsel for the petitioners submits that A-2 and A-3 are senior citizens and A-3 is a retired employee of Singareni Collieries; that

the main thrust of the allegations is against A-1 and there are no specific allegations against A-2 to A-4; that A-1 filed H.M.O.P.No.20 of 2014 before

the Senior Civil Judge, Peddapalli for divorce and after receipt of the said notice, the complainant lodged a complaint with police on 17.04.2014 with all

false and baseless allegations; that A-3 is presently aged about 81 years and residing at Ramavarappadu Village of Vijayawada Rural, Krishna District

and they never visited Godavarikhani or resided with A-1 and the complainant; and that A-3 is married sister of A-1 and her marriage was performed

in 2008 with one Kiran Kumar and later she joined her husband and was working as School Teacher, Khanapur, Adilabad District and she never

involved into the matrimonial affairs of A-1 and she has been falsely roped in only to harass them. The learned senior counsel prayed to quash the

proceeding against the petitioners-A-2 to A-4.

6. Learned Assistant Public Prosecutor, on the other hand, submits that the allegations in the FIR/complaint and charge sheet prima facie constitute

commission of alleged offences and that the proceedings may be allowed to continue and the truth or otherwise of the allegations in the FIR/complaint

and charge sheet would come to light only after trial.

7. A perusal of the complainant/FIR and charge sheet discloses that the marriage of the complainant and A-1 was held on 16.05.2010 and at the time

of marriage, on the demand of A-1 to A-3, the parents of the complainant gave an amount of Rs.10 lakhs in cash, three sovereigns of gold ornaments

and Rs.50,000/-towards adapaduchu lanchanam and also one acre of land to A-1 and after marriage, they started living together. A-1 to A-3 harassed

her physically and mentally demanding additional dowry. The allegations in the charge sheet would reveal that they are made mainly against A-1 and

A-5. The complainant has made a vague allegation against the parents of A-1 that they have also harassed her mentally and physically and demanded

her dowry. Admittedly, it is nowhere mentioned in the complaint on what date, and when and what was the specific demand made by them. The

complainant also made serious allegations against A-5, who is cousin of A-1, for the offences under Sections 498-A and 354 IPC and Sections 3 and 4

of the Dowry Prohibition Act. In the complaint, there is no specific allegation against A-4, except stating that she has supported her parents A-2

and A-3 and demanded additional dowry and harassed her mentally and physically. It is evident from the allegations in the charge sheet and complaint

and also the statements of the witnesses, there are no specific allegations against the petitioners-A-2 to A-4 prima facie attracting the ingredients of

the offences alleged.

8. In *MANJU RAM KALITA v STATE OF ASSAM* (2009) 13 SCC 330, the Hon'ble Apex Court at Page 22 held thus:

Cruelty for the purpose of Section 498-A IPC is to be established in the context of Section 498-A IPC as it may be a different from other statutory

provisions. It is to be determined/ inferred by considering the conduct of the man, weighing the gravity or seriousness of his acts and to find out as to

whether it is likely to drive the woman to commit suicide etc. It is to be established that the woman has been subjected to cruelty

continuously/persistently or at least in close proximity of time of lodging the complaint. Petty quarrels cannot be termed as 'cruelty' to attract the

provisions of Section 498-A IPC. Causing mental torture to the extent that it becomes unbearable may be termed as cruelty.

9. In *STATE OF HARYANA v. BHAJAN LAL* 1992 SCC (Cri) 426, the Hon'ble Apex Court laid the following guidelines while exercising the

powers under Section 482 Cr.P.C and gave the following categories of cases by way of illustrations wherein such power could be exercised either to

prevent abuse of process of the court or otherwise to secure the ends of justice, as under:

(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety

do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence,

justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section

155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the

commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted

by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever

reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is

instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing

efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for

wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

10. In the said judgment, the Hon'ble Apex Court further held at paragraph 103 as under:

"We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with

circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or

genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary

jurisdiction on the court to act according to its whim or caprice.

11. Keeping in view the principles laid down in the above said decision, in the instant case, there are no specific allegations against the petitioners-A-2

to A-4 to attract any of the ingredients of the offences alleged and to proceed against them by conducting trial. It appears from the allegations in the

charge sheet that the complainant made omnibus allegations against A-2 to A-4 with an ulterior motive for wrecking vengeance on A-1, since the

entire case proceedings prima facie did not make out any of the ingredients of the offences alleged and continuation of the proceedings would

certainly lead to insurmountable harassment, agony and pain to the petitioners. The learned senior counsel for the petitioners in his submissions has

specifically stated that A-3 was never staying with the complainant and A-1 and she was residing near Vijayawada and similarly A-4, who is sister of

A-1, is married and residing at her matrimonial home, which is 180 kms away from the place of the complainant. The complainant has made omnibus

allegations against the petitioners and such allegations of harassment of husband and his close relatives who had been living at different places and

rarely visit the place where the complainant resided have to be viewed with great care, caution and circumspection. It appears from the material on

record that since no specific allegations to constitute prima facie material against petitioners have been made, it would be unfair to compel them to

undergo the rigmarole of criminal trial.

12. Under those circumstances, it is held that continuance of further proceedings against the petitioners/A-2 to A-4 in S.C.No.557 of 2014 only

amounts to abuse of process of law and would not serve any useful purpose. It is, therefore, considered a fit case 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 in S.C.No.557 of 2014.

13. The criminal petition is, accordingly, allowed. The proceedings against the against the petitioners/A-2 to A-4 in S.C.No.557 of 2014, on the file of

the Assistant Sessions Judge, Peddapalli, Karimnagar District, are hereby quashed.

14. Pending miscellaneous petitions, if any, stand closed.