(2023) 02 TEL CK 0047

High Court For The State Of Telangana:: At Hyderabad

Case No: Criminal Petition Nos. 7156, 7276 Of 2022

N.Madhavi	APPELLANT
Vs	
State Of Telangana	RESPONDENT

Date of Decision: Feb. 14, 2023

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 161, 482

Hon'ble Judges: K.Surender, J

Bench: Single Bench

Advocate: T S Anirudh Reddy

Final Decision: Allowed/Partly Allowed

Judgement

1. Criminal Petition No.7156 of 2022 is filed to quash the proceedings against the petitioners/A5 to A7 in C.C.No.197 of 2021 on the file of Additional

Judicial First Class Magistrate at Sangareddy.

2. Criminal Petition No.7276 of 2022 is filed to quash the proceedings against the petitioners/A2 to A4 in C.C.No.197 of 2021 on the file of Additional

Judicial First Class Magistrate at Sangareddy.

3. Petitioners in both the petitions, who are A2 to A7 are aggrieved by the orders of the learned Magistrate directing the issuance of summons, by

taking cognizance against them on an application made be the 2nd respondent.

4. It is the case of the 2nd respondent that she was married to A1 and at the time of marriage, demand was made for dowry, as such, 68 tulas of gold,

Rs.24.00 lakhs cash, silver and other articles were also given. Rs.20.00 lakhs was spent for performing the marriage. After marriage, 2nd respondent

joined husband and in-laws (A2 to A4), who were staying in the same flat. A1 and petitioners/A2 to A4 started harassing the 2nd respondent

physically and mentally to get additional dowry for settling certain civil disputes before the Lok Adalat. A1 used to beat the 2nd respondent at the

instance of these petitioners to get properties from her father and since it was not given, the harassment increased. On 31.01.2018, these petitioners

threatened to get additional dowry and since 2nd respondent expressed inability, A1 threatened to kill with a licenced pistol and she was necked out of

the house at the instigation of these petitioners.

5. Though the 2nd respondent tried to get back into the house the doors were shut and she had to go to her parentsÃ¢â‚¬â„¢ house. While staying in her

house, though several attempts were made by the parents of the 2nd respondent to settle the issues, A1 and these petitioners were adamant. Though

the 2nd respondent narrated all these facts before the police, the police filed final report deleting the names of these petitioners. Aggrieved by the

same, the 2nd respondent filed protest application and the learned Magistrate having recorded the statements of the 2nd respondent and three other

witnesses passed the impugned order.

6. Sri T.Pradyumnakumar Reddy, learned Senior Counsel appearing for Sri T.Anirudhreddy, learned counsel for the petitioners would submit that the

Magistrate had committed error in taking cognizance and issuing summons to these petitioners. Considering the compliant and other statements of

witnesses, there are vague and omnibus allegations that are leveled against these petitioners, for which reason, the proceedings cannot be continued

and the same have to be quashed.

7. Learned counsel appearing for the 2nd respondent would submit that when there are clear allegations against these petitioners/A2 to A7 and their

names were also mentioned during the course of investigation. The police have deliberately deleted the names in the charge sheet in collusion with the

petitioners. The names of the petitioners have been specifically mentioned stating that they were responsible in harassing the 2nd respondent and the

learned Magistrate has rightly taken cognizance against them. The petitioners have to face trial and prayed to dismiss the petitions.

8. The main ground on which the 2nd respondent sought to prosecute the petitioners is that the police during the course of investigation have colluded

with these petitioners and concluded that these petitioners did not inflict any kind of cruelty. The said report of the police was on the basis of

examination of two witnesses, who are maid servant (L.W.6) and supervisor (L.W.7) of Hill Apartments, Banjarahills, where the petitioners and A1

were staying.

9. Counsel further argued that the Learned Magistrate found that the 2nd respondent, father, mother and one Mogul Reddy, co-brother of father of the

2nd respondent had clearly testified that A2 to A7 had harassed the 2nd respondent. However, their names were deleted. The names of these

petitioners were mentioned in the statements made to the police, but the police committed error in not filing the charge sheet against the petitioners.

Accordingly, the learned Magistrate having taken cognizance issued summons to the petitioners/A2 to A7. As there is no infirmity in the order of the

Learned Magistrate, petitions have to be dismissed.

10. The events that are narrated by P.W.1 clearly make a mention about A1 beating the 2nd respondent and deman for additional dowry. The

allegation as far as the petitioners 2 to 7 is concerned, it is stated that these petitioners instigated A1 and also at the time of marriage customary

Ã¢â‚¬Ëœadapaduchu katnamÃ¢â‚¬â„¢ was given. The narration in both Section 161 Cr.P.C statements and the statements made before the Court at the time of

protest petition mentioned about the complicity of the petitioners on account of their instigating A1. A2 and A3, parents-in-law and A1/husband are

responsible for the initial demand of dowry and subsequent additional demand that was made.

11. In the case of Geeta Mehrotra and another v. Uttar Pradesh (2012) 10 SCC 741 in which the HonÃ¢â‚¬â„¢ble Supreme Court held that continuation of

proceedings against whom the specific instances of harassment are not narrated, the same are liable to be quashed. The HonÃ¢â‚¬â„¢ble Supreme Court

in the case of Pawan Kumar v. State of Haryana AIR 1998 SC 958 had cautioned the courts of innocent persons being prosecuted with ulterior

motive and the courts have the duty to separate such individuals by scrutinizing the circumstances. In the case of Preeti Gupta v. State of Jharkhand

(2010) 7 Supreme Court Cases 667, the HonÃ¢â‚¬â„¢ble Supreme Court observed that in complaint of harassment, there is a tendency of implicating the

relatives of the husband and for the said reason, the HonÃ¢â‚¬â„¢ble Supreme Court suggested that necessary changes have to be made to the provisions

of law by appropriate legislation.

12. Prima facie case is made out against A2 and A3 parents in law. This Court is not inclined to quash the proceedings against the petitioners 1 and

2/A2 and A3 in Crl.P.No.7276 of 2022. However, insofar as A4 to A7 are concerned, omnibus nature of allegations about being complicit of

instigating A1 appears improbable and their names have been mentioned only to make them accused to face criminal trial. Only for the reason of

naming the petitioners/A4 to A7 as the persons responsible for instigating A1 would not suffice to permit continuance of the criminal proceedings.

13. In Kahkashan Kausar @ Sonam and others v. State of Bihar (2022) 6 Supreme Court Cases 599, the HonÃ¢â‚¬â„¢ble Supreme Court held that unless

there are specific and distinct allegations against the accused, the proceedings can be quashed. Under Section 482 of Cr.P.C, the Court should be

careful in proceeding against relatives who are roped in on the basis of vague and omnibus allegations.

14. In view of the above judgments and also the nature of omnibus allegations made against petitioners/A4 to A7, this Court is inclined to quash the

proceedings against them. Before parting, the learned Magistrate having followed the procedure passed the impugned order. However, there is no

mention of the penal provisions under which cognizance was taken by the learned Magistrate in the order. In the said circumstances of taking

cognizance of a private compliant or protest petition made by the complainant, it is imperative that the Magistrates pass speaking orders and also

denote the basic ingredients that are attracted to make out an offence. It is necessary that the penal provisions are also mentioned while taking

cognizance against the accused and issue summons.

15. In the result, the proceedings against 3rd petitioner/A4 in Crl.P.No.7276 of 2022 and petitioners 1 to 3/A5 to A7 in Crl.P.No.7156 in C.C.No.197

of 2021 on the file of Additional Judicial First Class Magistrate at Sangareddy, are hereby quashed.

16. Accordingly, the Criminal Petition No.7276 of 2022 is allowed in part and Criminal Petition No.7156 of 2022 is allowed. Consequently,

miscellaneous applications pending, if any, shall stand disposed.