

## Rapolu Anand and 6 others Vs The State of A.P. and another

**Court:** Andhra Pradesh High Court

**Date of Decision:** Nov. 1, 2011

**Acts Referred:** Criminal Procedure Code, 1973 (CrPC) â€” Section 188, 482

Dowry Prohibition Act, 1961 â€” Section 3, 4

Penal Code, 1860 (IPC) â€” Section 4, 498A

**Citation:** (2012) 3 ALT(Cri) 108

**Hon'ble Judges:** Samudrala Govindarajulu, J

**Bench:** Single Bench

**Advocate:** C. Padmanabha Reddy for Sri A. Ravinder, for the Appellant; Additional Public Prosecutor for the Respondent-1 and Sri P. Giri Krishna for the Respondent-2, for the Respondent

**Final Decision:** Dismissed

### Judgement

@JUDGMENTTAG-ORDER

Honourable Sri Justice Samudrala Govindarajulu

1. The petitioners 1 to 7/A-1 to A-7 are accused of offences punishable under Sections 498-A I.P.C and Sections 3 and 4 of the Dowry

Prohibition Act in C.C. No. 734 of 2008 on the file of IV Additional Judicial Magistrate of the First Class, Warangal. A-1 is husband of the 2nd

respondent/defacto-complainant. A-2 and A-3 are parents and A-4 and A-5 are sisters of A-1. A-6 and A-7 are husbands of A-4 and A-5

respectively. A-1 is residing in New Jersey of U.S.A. A-2 and A-3 are residents of Hanamkonda. A-5 and A-7 are residents of Hyderabad. A-4

and A-6 are doctors in Dharmapuri of Karimnagar District. A-2 after retiring as Principal of college is stated to be now working as Principal of a

private degree college. A-1 is working as Radio Frequency Engineer in Cell Cite connections. Marriage of A-1 with the 2nd respondent took

place on 13.02.2005 at Hanamkonda. Prior to marriage, engagement took place on 03.11.2004 at Hanamkonda. It is alleged that at the time of

marriage talks, A-2 to A-7 participated in the house of the 2nd respondent's father at Hanamkonda and that A-2 to A-7 demanded Rs.

10,00,000/-towards dowry apart from other articles worth about Rs. 5,00,000/-from parents of the 2nd respondent and that finally the alliance

was fixed with Rs. 2,00,000/-cash towards dowry, gold worth about Rs. 3,00,000/-and other articles worth Rs. 1,00,000/-. According to the

prosecution, most of the demands came from A-4 and A-5. After marriage, A-1 left for U.S.A on 23.02.2005 leaving the 2nd respondent in his

parents house at Hanamkonda. It is alleged that during her stay in the house of A-2, A-2 to A-7 taunted her with abusive language for not fulfilling

their demands to their expectations though her parents gave all the articles as agreed before elders and that A-2 to A-7 demanded additional

dowry of Rs. 1,00,000/- to permit her to join her husband and that as per their demand, parents of the 2nd respondent gave them the said amount

and also purchased ticket and sent the 2nd respondent to U.S.A and the 2nd respondent joined her husband on 11.03.2005. It is further alleged

that the 2nd respondent was put to misery and harassment by A-1 in U.S.A because of constant communication by A-2 to A-7 with A-1 by way

of instigating him and instructing him as well as monitoring him to carry out constant harassment of the 2nd respondent.

2. Placing reliance on Thota Venkateswarlu Vs. State of A.P. tr. Princ Sec. and Another, of the Supreme Court, it is contended by the senior

counsel for the petitioners that in view of Section 188 Cr.P.C, the lower Court has no jurisdiction to try the case in so far as the alleged incidents of

harassment which took place out of India in U.S.A without prior sanction of the Central Government. The Supreme Court observed:

10. The language of Section 188 Cr.P.C is quite clear that when an offence is committed outside India by a citizen of India, he may be dealt with in

respect of such offences as if they had been committed in India. The proviso, however, indicates that such offences could be inquired into or tried

only after having obtained the previous sanction of the Central Government....

11. Accordingly, up to the stage of taking cognizance, no previous sanction would be required from the Central Government in terms of the

proviso to Section 188 Cr.P.C. However, the trial cannot proceed beyond the cognizance stage without the previous sanction of the Central

Government. The Magistrate is, therefore, free to proceed against the accused in respect of offences having been committed in India and to

complete the trial and pass judgment therein, without being inhibited by the other alleged offences for which sanction would be required.

12. It may also be indicated that the provisions of the Indian Penal Code have been extended to offences committed by any citizen of India in any

place within and beyond India by virtue of Section 4 thereof. Accordingly, offences committed in Botswana by an Indian citizen would also be

amenable to the provisions of the Indian Penal Code, subject to the limitation imposed under the proviso to Section 188 Cr.P.C.

3. In view of Section 4 I.P.C and Section 188 Cr.P.C, taking cognizance of the offences against all the accused including A-1 for the alleged

harassment meted out to the 2nd respondent both in India as well as out of India, is well within the powers of the Magistrate at Warangal. In so far

as the allegations of harassment of the 2nd respondent by A-1 in U.S.A are concerned, Section 188 Cr.P.C places a temporary embargo on the

Magistrate not to try the case in so far as those allegations are concerned until sanction of the Central Government is obtained in that regard by the

prosecuting agency. At any rate, taking cognizance of the case for the above offences against A-1 is not in any way contrary to law and legal

procedure. Therefore, the question of quashing the criminal case in so far as A-1 is concerned in exercise of power u/s 482 Cr.P.C cannot be

resorted to. It is for the Magistrate to chalk out method of procedure in order to postpone trial of the case against A-1 in relation to the allegations

which are said to have occurred in U.S.A. It is open for the Magistrate to split up the case against A-1 who is now in U.S.A and against whom

non-bailable warrant is said to have been issued as A-1 is remaining in U.S.A to avoid the process of law in India, and to proceed with the case as

against other accused. Even after A-1 is apprehended in this case, the Magistrate will be at liberty to proceed with trial of the case against A-1

also with regard to the alleged events which took place in India, even prior to the prosecution obtaining sanction of the Central Government u/s

188 Cr.P.C.

4. On facts, it is further alleged that A-3 and A-5 purposefully visited house of senior paternal uncle of the 2nd respondent (4th witness in the

charge sheet) while making complaints for fewer dowries and abused the 2nd respondent and her parents and that subsequently A-3 and A-5

misinformed A-1 that senior paternal uncle of the 2nd respondent misbehaved with them, with an intention to instigate A-1 to make the 2nd

respondent's life miserable. It is further alleged that on the instigation of A-2 to A-7, A-1 used criminal force on the 2nd respondent stating that A-

7 gave loan of Rs. 5,00,000/-and the 2nd respondent's father has to discharge the said loan to A-7.

5. It is alleged that A-1 to A-7 demanded Rs. 1,00,000/-from the 2nd respondent's father to meet expenditure for "saree function" of Snigdha

who is daughter of A-4 and A-6. It is also alleged that A-2 to A-7 attended marriage of Dr. V. Sailaja who is daughter of senior paternal uncle of

the 2nd respondent (4th witness in the charge sheet) where A-2 to A-7 saw gifting of luxurious car, huge property and other articles to the newly

married couple and the said incident developed greediness for them and they started instigating A-1 over telephone who in turn used to harass the

2nd respondent in various methods. It is further alleged that on 09.09.2006 A-2 called parents of the 2nd respondent to his house where A-2 to

A-7 were present and that A-2 to A-7 threatened parents of the 2nd respondent that they would see that the 2nd respondent is sent back to India

if they did not fulfil their demand and stated that several matches offering dowry of more than Rs. 20,00,000/-are pending. The charge sheet

enunciates several other incidents in which A-1 to A-7 and more particularly A-2 to A-7 have directly participated in harassing the 2nd respondent

and her parents demanding additional dowry, money and presents. The list mentioned in the charge sheet in this regard is voluminous. There are

specific allegations against all the accused including A-3 to A-7. Ultimately, the 2nd respondent joined her parents at India and A-1 filed divorce

petition against the 2nd respondent in U.S.A. It is stated by the senior counsel that subsequent to filing of this case, U.S.A Court granted divorce

between A-1 and the 2nd respondent. Subsequent grant of divorce will not absolve A-1 and other accused from their alleged criminal activity prior

to grant of divorce. The allegations against A-2 to A-7 are not omnibus in nature. Specific allegations are mentioned against A-2 to A-7 with dates

and details of incidents. Therefore, I do not find any valid or legal reasons to quash the criminal case against any of the accused pending in the

lower Court.

6. In the result, the Criminal Petition is dismissed with a direction to the Magistrate to follow the procedure prescribed u/s 188 Cr.P.C as

enunciated by the Supreme Court in Thota Venkateswarlu and also by this Court in this order.