

THE HONOURABLE SMT. JUSTICE K. SUJANA

CRIMINAL PETITION No.9667 OF 2022

ORDER:

This Criminal Petitions is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') to quash the proceedings against the petitioners/accused Nos.2 to 5 in C.C.No.3946 of 2021, on the file of the III Additional Junior Civil Judge-Cum-XIV Additional Metropolitan Magistrate, Medchal-Malkajgiri District at Kukatpally, for the offences punishable under Section 498-A of IPC and Sections 3, 4 of DP Act.

2. The brief facts of the case are that accused No.1 married respondent No.2 on 25.08.2018 and at the time of marriage parents of respondent No.2 given Rs.30,00,000/-, 53 tolas of gold, I-Phone with watch worth of Rs.1,50,000/- as dowry. Later, accused No.1 along with the other accused used to harass her physically, mentally and threatened her with dire consequences for want of additional dowry. Hence, respondent No.2 filed a complaint in Crime No.511 of 2020 before the Jagadgirigutta Police and after completion of investigation, a charge sheet was filed vide C.C.No.3946 of 2021 before III Additional Junior Civil Judge-Cum-XIV Additional Metropolitan Magistrate, Medchal-Malkajgiri District at Kukatpally.

3. Heard Sri P.Venkanna, learned counsel for the petitioners and Sri S. Ganesh, learned Assistant Public Prosecutor for respondent No.1-State.

4. Learned counsel for the petitioners submitted that the petitioners herein are living separately from accused No.1 and respondent No.2. He further submitted that the petitioners are no way concerned with the alleged offences. Hence, he prayed the Court to allow the Criminal Petition by quashing the proceedings against the petitioners.

5. On the other hand, learned Assistant Public Prosecutor for respondent No.1-State opposed the submissions of the learned counsel for the petitioners stating that as per the averments of the complaint, petitioners/accused Nos.2 to 5 along with accused No.1 used to harass respondent No.2. Hence, he prayed the Court to dismiss the Criminal Petition.

6. In view of the rival submissions made by both the counsel, this Court has perused the material available on record. As per the averments of the complaint, petitioners/accused Nos.2 to 5 along with accused No.1 harassed respondent No.2 for want of additional dowry. It is pertinent to note that except the above allegation there are no

specific allegations against the petitioners/accused Nos.2 to 5 and there is no allegation to demonstrate that they interfered with the matrimonial disputes between accused No.1 and respondent No.2. Further, the statement of respondent No.2 recorded by the Police under Section 161 of Cr.P.C., shows that when she complained to accused Nos.2 to 5 about the harassment of accused No.1, they supported accused No.1. Except the above said allegation, there are no specific allegations against the petitioner to constitute offence under Section 498-A of IPC and Sections 3, 4 of DP Act.

7. At this stage, it is relevant to note the observations made by the Apex Court in ***State of Haryana and others vs. Bhajanlal***¹, whereunder the following categories were illustrated, wherein the extraordinary power under Article 226 of the Constitution of India or the inherent powers under Section 482 Cr.P.C. can be exercised by the High Court to prevent the abuse of process of any Court or otherwise to secure the ends of justice. The said categories are extracted as under:

“1. 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.

¹1992 supp (1) SCC 335

2. Where the allegations in the First Information Report and other materials, if any, accompanying the FIR 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.”

8. Further, in **Preeti Gupta vs. State of Jharkhand**², the Apex Court observed that the family members who are residing away from accused No.1 cannot be roped into the case. In view thereof, as the petitioners are not residing along with the family of accused No.1, the allegations against them are vague.

² (2010) 7 SCC 667

Therefore, it can be said that category No.1 as extracted above in the case of **Bhajanlal** (Supra) is relevant to the present case. Therefore, this Court is of the considered view that even if the trial is conducted, no purpose would be served and there are no other specific allegations against the petitioners.

9. Accordingly, the Criminal Petition is Allowed and the proceedings against the petitioners/accused Nos.2 to 5 in C.C.No.3946 of 2021 on the file of III Additional Civil Judge-Cum-XIV Additional Metropolitan Magistrate, Medchal-Malkajgiri District at Kukatpally, are hereby quashed.

Miscellaneous applications, if any pending, shall also stand closed.

K. SUJANA, J

Date: 03.05.2024

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