

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

TUESDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SMT JUSTICE JUVVADI SRIDEVI

CRIMINAL PETITION NO: 7552 OF 2024

Between:

1. Mothe Chandra Shekar Rao, S/o. late Venkata Swamy, aged about 63 years, Occ. Rtd. Emp., R/o. Flat No.424/B, 5th Block, Janapriya Township, Mallapur, Uppal Mandal of Medchal District.
2. Mothe Raja Bahadur Shekar alais Raju, S/o. Chandra Shekar Rao, aged about 42 years, Occ. Pvt., Emp., R/o. Plot No.258, Road No.3, M.L.A. Colony, Dammaiguda, Hyderabad - 500083.

...PETITIONERS/ACCUSED No.1 and 3

AND

1. The State of Telangana, Through SHO, P.S., Nacharam, Rep. by Public Prosecutor, High Court for the State of Telangana at Hyderabad.
2. Smt. Mothe Nirmala, W/o. Chandra Shekar Rao, aged about 42 years, Occ. Housewife, R/o. H.No.1-16/62, S.V. Nagar, Mallapur, Uppal Mandal of Medchal District.

...RESPONDENTS/COMPLAINANTS

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the proceedings in C.C.No.3871 of 2022 on the file of the I AJCJ-cum-V Addl. Metropolitan Magistrate, Medchal-Malkajgiri District, Uppal.

I.A. NO: 1 OF 2024

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings in C.C.No.3871 of 2022 on the file of the I AJCJ-cum-V Addl. Metropolitan Magistrate, Medchal-Malkajgiri District, Uppal, including appearance of the petitioners, pending disposal of the Criminal Petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri SRINIVAS EMANI, Advocate for the Petitioner and Sri M.Ramachandra Reddy, the Additional Public Prosecutor on behalf of the Respondent No.1 and none appeared for the Respondent No.2.

The Court made the following: ORDER

THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI

CRIMINAL PETITION No.7552 of 2024

ORDER:

This Criminal Petition is filed under Section 482 of Cr.P.C. by the petitioners-accused Nos.1 and 3 seeking to quash the proceedings against them in C.C.No.3871 of 2022 pending on the file of the learned V Additional Metropolitan Magistrate at Medchal-Malkajgiri District, Uppal (for short 'trial Court'). The offences alleged against the petitioner-accused No.1 are under Sections 420, 417, 498-A and 506 of the Indian Penal Code (for short 'IPC') and Sections 3 and 4 of the Dowry Prohibition Act, 1961 (for short 'the Act'), whereas the offences alleged against the petitioner-accused No.3 are under Sections 498-A and 506 of IPC.

2. Heard Mr. Srinivas Emani, learned counsel for the petitioners and Mr. M.Ramachandra Reddy, learned Additional Public Prosecutor appearing for respondent No.1-State. In spite of service of notice, there is no representation for respondent No.2-*de facto* complainant. Perused the record.

3. The case of the prosecution in brief is that the petitioner-accused No.1 is the husband of the *de facto* complainant and petitioner-accused No.3 is his son. The marriage between the petitioner-accused No.1 and

the *de facto* complainant was solemnized on 02.04.2009 and they were blessed with two children. Subsequently, in 2015, the *de facto* complainant came to know that petitioner-accused No.1 was already married and had four children from his first wife. In 2016, he convinced his first wife and took the *de facto* complainant to reside with them. But, after some days, due to disputes, his first wife and children, including the petitioner-accused No.3, harassed the *de facto* complainant and drove her and her children out of the house, withholding her marriage photos and jewellery. Later, petitioner-accused No.1 arranged a separate residence for them. After few days, he started harassing her physically and mentally, accusing her of illicit relations and neglecting her and her children. In 2019, upon the retirement of petitioner-accused No.1, when the *de facto* complainant requested him to deposit some amount in the name of their daughters, he refused on the pretext that no dowry was given at the time of marriage, and harassed her.

4. It is contended by the learned counsel for petitioners that the petitioners-accused Nos.1 and 3 are innocent and they have been falsely implicated in the case by the *de facto* complainant, only to wreck vengeance in view of the matrimonial disputes. There is an unexplained delay in lodging the complaint and the *de facto* complainant is in the habit of filing cases by fabricating stories of marriage and cheating. All the witnesses are family members of *de facto* complainant and they are

interested witnesses. The petitioner-accused No.1 is a retired person suffering from old age ailments. Except bald and general allegations, no specific overt acts are attributed to the petitioners. Thus, he prayed to quash the proceedings against the petitioners.

5. On the other hand, the learned Additional Public Prosecutor contended that the petitioners herein have harassed the *de facto* complainant after her marriage with petitioner-accused No.1. It is further contended that all the allegations levelled in the complaint as well as in the charge sheet are subject matter of trial, and hence, this is not a fit case to quash the proceedings at this stage. Accordingly, he prayed to dismiss the petition.

6. For the sake of convenience, Section 498-A of IPC is extracted hereunder:

498A. Husband or relative of husband of a woman subjecting her to cruelty.—

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation.— For the purpose of this section, "cruelty" means—(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

7. In the judgment of **State of Haryana and others v. CH.Bhajan Lal and others¹**, the Hon'ble Supreme Court held as follows:

The following categories of cases can be stated by way of illustration wherein the extraordinary power under Article 226 or the inherent powers under Section 482 Cr.P.C. can be exercised by the High Court either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

(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;

(2) 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;

(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

¹ 1992 SCC (Cri) 426

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. In the judgment of **Dara Lakshmi Narayana and others v. State of Telangana and another²**, the Hon'ble Supreme Court, at paragraph Nos.18, 25, 31 and 32 held that:

"18. A bare perusal of the FIR shows that the allegations made by respondent No.2 are vague and omnibus. Other than claiming that appellant No.1 harassed her and that appellant Nos.2 to 6 instigated him to do so, respondent No.2 has not provided any specific details or described any particular instance of harassment. She has also not mentioned the time, date, place, or manner in which the alleged harassment occurred. Therefore, the FIR lacks concrete and precise allegations.

25. A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognised fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband's family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family members. In the present case, appellant Nos.2 to 6, who are the members of the family of appellant No.1 have been living in different cities and have not resided in the matrimonial house of appellant No.1 and respondent No.2 herein. Hence, they cannot be dragged into criminal prosecution and the same would be an abuse of the process of the law in the absence of specific allegations made against each of them.

31. Further, this Court in *Preeti Gupta vs. State of Jharkhand* (2010) 7 SCC 667 held that the courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with

² 2024 INSC 953

matrimonial cases. The allegations of harassment by the husband's close relatives who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinized with great care and circumspection.

32. We, therefore, are of the opinion that the impugned FIR No.82 of 2022 filed by respondent No.2 was initiated with ulterior motives to settle personal scores and grudges against appellant No.1 and his family members i.e., appellant Nos.2 to 6 herein. Hence, the present case at hand falls within category (7) of illustrative parameters highlighted in Bhajan Lal. Therefore, the High Court, in the present case, erred in not exercising the powers available to it under Section 482 CrPC and thereby failed to prevent abuse of the Court's process by continuing the criminal prosecution against the appellants."

9. In numerous cases, the Hon'ble Supreme Court, while dealing with similar cases held that making vague and generalised allegations during matrimonial conflicts, if not scrutinized, will lead to the misuse of legal processes and an encouragement for use of arm twisting tactics by a wife and/or her family. Sometimes, recourse is taken to invoke Section 498-A of the IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife. Therefore, the Courts are bound to ensure whether there is any *prima facie* case against the husband and his family members before prosecuting the husband and his family members.

10. In the present case, admittedly, there is no dispute with regard to the marriage between the *de facto* complainant and petitioner-accused No.1 and there is an unexplained delay in lodging the complaint. On a perusal of the allegations made in the FIR or charge sheet, even if they

are taken on face value, no substantial and specific allegations have been made against the petitioner-accused No.3, except stating that he along with his mother and siblings have threatened and driven out the *de facto* complainant and her children out of the house. The *de facto* complainant has not provided any specific details or described any particular instance of harassment or cruelty or demand of dowry against the petitioner-accused No.3. Hence, the petitioner-accused No.3 cannot be put to the ordeal of trial especially when there were no allegations of cruelty or harassment for or in relation to demand of dowry against him.

11. For the foregoing reasons and in view of the judgments referred to above, the petitioner-accused No.3 cannot be dragged into criminal prosecution and the continuation of criminal proceedings against him amounts to sheer abuse of process of the law. Hence, the proceedings against the petitioner-accused No.3 are liable to be quashed.

12. Accordingly, this Criminal Petition is partly-allowed, quashing the proceedings against the petitioner-accused No.3 in C.C.No.3871 of 2022 pending on the file of the learned V Additional Metropolitan Magistrate at Medchal-Malkajgiri District, Uppal.

13. Insofar as petitioner-accused No.1 is concerned, since there are triable issues and the truth or otherwise of the allegations levelled against him can only be decided after conducting full-fledged trial, this Criminal

Petition is dismissed. However, his appearance before the trial Court is dispensed with, unless his presence is specifically required, subject to the condition of petitioner-accused No.1 being represented by his counsel on every date of hearing, and in default, this order gets vacated automatically.

Pending miscellaneous applications, if any, shall stand closed.

SD/-MOHD.ISMAIL
DEPUTY REGISTRAR

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SECTION OFFICER

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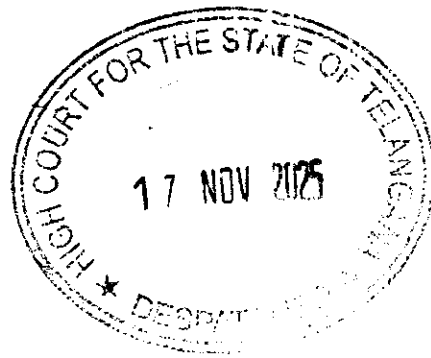
1. The I AJCJ-cum-V Addl. Metropolitan Magistrate, Medchal-Malkajgiri District, Uppal.
2. The Station House Officer, Police Station, Nacharam, Rachakonda
3. Two CCs to the PUBLIC PROSECUTOR, High Court at Hyderabad. (OUT)
4. One CC to SRI SRINIVAS EMANI Advocate [OPUC]
5. Two CD Copies

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HIGH COURT

DATED:04/11/2025



ORDER

CRLP.No.7552 of 2024

CRIMINAL PETITION IS PARTLY ALLOWED

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17/11/25