

(2015) 04 KAR CK 0158
In the Karnataka High Court
Case No : Criminal Petition No. 7951 of 2013

Basavaraj Dugani and Others

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 07-04-2015

Acts Referred:

Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 323, 34, 498A, 504

Citation : (2015) 04 KAR CK 0158

Hon'ble Judges : A.S. Pachhapure, J

Bench : Single Bench

Advocate : Shobha Bhavi Katti, for the Appellant; K. Nageshwarappa, HCGP, Advocates for the Respondent

Final Decision : Dismissed

Judgement

A.S. Pachhapure, J.—The petitioners have sought for quashing the proceedings in Cr. No. 239/2013 of Kodigehalli Police Station registered for the offence under Sections 3 and 4 of Dowry Prohibition Act, 1961 (hereinafter called as "DP Act" for short) and Sections 498A, 504 and 323 read with Section 34 IPC.

2. The facts reveal that the third petitioner is the son of petitioners 1 and 2 and the marriage of third petitioner was held on 10.05.2012 at Atria Hotel, Palace Road, Bangalore with Deepa, the complainant and it is alleged by her that at the time of marriage, a sum of Rs. 25,00,000/- was spent by her parents and gold ornaments weighing about 800 grams were given in addition to golden ring, bracelet, chain weighing about 100 grams in all and diamond ring worth Rs. 2,25,000/- and 14 kgs of silver articles at the request of second petitioner. The third petitioner who is the husband of complainant returned to India from United States for the purpose of marriage and after the marriage, he left his wife and returned to Boston, United States.

It is the grievance of complainant that while she was in Bangalore with petitioners 1 and 2, she was subjected to cruelty and harassment and that she

was insisted to take non vegetarian food, though she never took it and that her parents-in-law i.e., petitioners 1 and 2 were alleging that she is a member of ordinary and cheap family and that she does not know the way to take meal in a Star hotel. She also stated that at 6.30 p.m. on a day at night, her belongings were thrown out of the house and she was asked to go to Haveri and that while she started weeping, she was asked to stay in a room. Both the petitioners 1 and 2 were threatening that in case if she does not pass GRE examination, her marriage relationship will be in stake and because of such harassment, she was not able to get through the said examination. She was also harassed for not getting through the examination both at the hands of petitioners 1 and 2 and also at the instance of third petitioner. She claims that petitioners 1 and 2 demanded the sum of Rs. 2,00,000/- which was brought and given to them and she was further asked to bring the sum of Rs. 1,65,000/- the expenses incurred for her education after the marriage and she had brought the same from her parents and gave it to the hands of petitioners 1 and 2.

On the date when she had gone to United States, her parents were not allowed to enter the house and they had to bless her by standing by the side of road. She states that even when she was residing in the residence of third petitioner in Boston, he was not allowed to sleep with him and he was not taking care of her and did not incur the expenses for her maintenance. She states that the third petitioner on the ground that she did not get through the written test, used to tease her that he would not spend the money earned by him as she does not have any avocation. On an occasion, he has slapped her on the cheeks, ultimately, she was sent back by the third petitioner to India stating that he would return to India in a separate flight provided by his employer to complete a project in India. Even when she returned to India, petitioners 1 and 2 did not drop her at the residence and left her on the way in Haveri and she was subjected to such harassment at the hands of these petitioners.

A complaint of the aforesaid facts was registered by the police in Cr. No. 95/2013 in Haveri Town Police Station which came to be later transferred to Kodigehalli Police Station and after registration of the said complaint in Cr. No. 239/2013, the petitioners have approached this Court for quashing of proceedings.

3. Heard the learned Counsel for both the parties and also learned High Court Government Pleader for the State for the first respondent.

4. Reliance is placed by the learned Counsel for petitioner on the decision rendered by the Apex Court reported in Lalita Kumari Vs. Govt. of U.P. and Others, (2013) 12 AD 209 : AIR 2014 SC 187 : (2014) CriLJ 470 : (2013) 6 CTC 353 : (2014) 1 JCC 1 : (2013) 14 JT 399 : (2013) 4 RCR(Criminal) 979 : (2013) 13 SCALE 559 : (2014) 2 SCC 1 : (2014) 1 SCJ 68 . The Apex Court in its judgment dated 12.11.2013 has given certain directions in para 111 as regards the procedure to be adopted by the police in registration of the crime, particularly for the offence relating to matrimonial dispute, commercial offence, medical negligence, corruption case etc.,

5. Perusal of the directions would reveal the way in which the police have to register the crimes. But anyhow, as these directions are issued subsequent to registration of crime by the police in the case on hand, the question of following them by the police does not arise. In the aforesaid circumstances, it is necessary to scrutinize the averments in the complaint as to whether they are sufficient grounds to take action by way of investigation for the offences alleged in the complaint.

6. Learned Counsel has also placed reliance on State of Haryana and others Vs. Ch. Bhajan Lal and others, AIR 1992 SC 604 : (1992) CriLJ 527 : (1990) 4 JT 650 : (1990) 2 SCALE 1066 : (1992) 1 SCC 335 Supp : (1990) 3 SCR 259 Supp . The Apex Court held that the police officer who has reasons to suspect the commission of cognizable offence has to subjectively satisfy himself as to the existence of sufficient ground for entering into investigation. In the context of aforesaid principle laid down by the Apex Court, if the averments in the complaint are looked into, it is necessary to find out as to whether the allegation in the complaint constitute the offences alleged against the petitioners.

7. So far as the preliminary enquiry prior to registration of the crime is concerned, it is necessary only to ascertain the veracity of averments made in the complaint. It is the duty of police officer to collect the evidence only after registration of the crime. In case, in the course of investigation, if no material is collected, the police officer is at liberty to file "B" report and close the proceedings against the petitioners. Therefore, the only question for consideration for this Court would be as to whether the allegations in the complaint constitute the offences alleged against these petitioners.

8. It is relevant to note that so far as the second petitioner is concerned, there are averments in the complaint that on the statement of second petitioner, 100 grams of gold ornaments were given by her parents in addition to diamond ring worth Rs. 2,25,000/- and 14 kgs of silver articles. That apart, so far as offence under Section 498A IPC is concerned, she has stated about harassing her to take non vegetarian food, despite she had no such habit prior to her marriage; allegation that she belongs to ordinary and a cheap family; throwing out her belongings and asked her to go to her parents home at 8.30 p.m. in the night; threatening that they will cut the matrimonial relationship if she did not get through the exams; collecting Rs. 1,65,000/- the educational expenses incurred by the petitioners for the complainant after the marriage and demand of the sum of Rs. 2,00,000/- from her parents.

9. So far as the third petitioner is concerned, after she went to United States on 08.12.2012 and stayed for about 20 days, the averments relate to refusal of co-habitation and not spending anything for the complainant and threatening her that she has to work and earn her livelihood at a place in United States and sending her back alone on the guise of he returning to India for project. Furthermore, so far as petitioners 1 and 2 are concerned, the averment in the complaint that she was asked to go to Haveri and was dropped on the way

instead of living her to the residence. She has also stated that she was abused in filthy language and that she was subjected to cruelty and harassment and she was looked like a dog in the house. Anyhow, so far as collection of evidence relating to aforesaid averments is concerned, it is the duty of investigating officer, but prima facie looking to the allegations made in the complaint, they constitute the offence under the provisions of Sections 3 and 4 of DP Act and also under Section 498A IPC.

10. That apart, the petition is filed for quashing of FIR and the discretion vested with the Court is exercised only in a case of abuse of process of Court or that there is no material at all against the petitioners for the aforesaid offences. Looked from any angle, I do not find any exceptional grounds to grant relief sought for by the petitioners. It is for the police ultimately to make effort in the investigation to collect the evidence and in case if there is no evidence, they are at liberty to file "B" report. In case, if the evidence is available, they can file the chargesheet.

11. So far as petitioners 1 and 2 are concerned, they are already on anticipatory bail. There is no apprehension of their arrest and harassment by the police. Their interest is protected by the Court already by granting anticipatory bail. So far as the third petitioner is concerned, the stay has already been vacated. His presence is necessary before the police. In the aforesaid circumstances, I do not find any such grounds to quash the FIR.

The petition fails and it is accordingly dismissed.