(2013) 06 AP CK 0003

In the Andhra Pradesh High Court

Case No : Criminal P. No. 13266 of 2010

Cheeli Asirvadam and Others APPELLANT

Vs

State of Andhra Pradesh and Another RESPONDENT

Date of Decision : 04-06-2013

Acts Referred:

Citation : (2014) 1 ALD(Cri) 318 : (2013) 2 ALD(Cri) 390

Hon'ble Judges : C. Praveen Kumar, J

Bench : Single Bench

Advocate : Sai Gangadbar Chamarty, for the Appellant; V. Kishore for the Respondent No. 2, for the Respondent

Judgement

C. Praveen Kumar, J.—This criminal petition is filed u/s 482 of the Code of Criminal Procedure, seeking to quash proceedings in CC No. 360 of 2009 on the file of II Additional Chief Metropolitan Magistrate''s Court, Vijayawada against the petitioners, for offence punishable u/s 498A of the Indian Penal Code. The allegations of the charge-sheet in nutshell are as under:

The marriage of the de facto complainant, who is 2nd respondent herein, took place on 29.12.1999 with A1 Cheeli Rajaratnam in CBM Churtch, Vuyyuru. A2 and A3 are parents-in-law and A4 is the sister-in-law of the de facto complainant It is alleged that at the time of marriage, one lakh cash, one scooter and a gold ring were given as dowry and out of their wedlock, they were blessed with a daughter aged 6 years and a son aged 4 years. It is alleged that right from the third day of the marriage, A1 used to beat the 2nd respondent and used to say that he married her only to clear their debts with dowry received. A1 used to beat and abuse the 2nd respondent, used to take money from LW2-Manchala Ahladinibai and used to quarrel with her saying that the money has been giving only for the 2nd respondent Later, both A1 and the 2nd respondent came out of her in-laws house and started living separately with a hope that there would be a change in A1''s attitude. In that process, both the 2nd respondent and A1 shifted their family to Hyderabad in January, 2001, but there was no change in the attitude of A1. Since last two years, A1 wasting away money and gold by consuming liquor and maintaining illegal contacts with women and never allowed the 2nd respondent to do any job. In the month of January, 2009, both A1 and 2nd respondent returned to her in-laws house and after a week, A3 started harassing the informant In view of such harassment, the 2nd respondent left her house and started living with her mother. On 1.4.2009 A1 altercated with the 2nd respondent by insisting her to bring an amount of Rs. 20,000/- from her mother saying that he is in much need and when the 2nd respondent expressed her inability, A1 picked up an argument with her, dropped her and children at her house and went away. Basing on these allegations, a report was lodged before Vuyyuru Police Station and after completion of investigation, the police filed charge-sheet against A1 to A4 for an offence punishable u/s 498A IPC.

2. Heard the learned Counsel for the petitioners and the learned Additional Public Prosecutor for the respondents.

3. Learned Counsel for the petitioners mainly contended that even if all the allegations in the complaint were taken to be true, no offence u/s 498A IPC is made out against any of the petitioners, who are parents-in-law and sister-in-law of the 2nd respondent since no specific overt acts have been attributed to any of the petitioners and as such, the continuation of criminal proceedings against them will be an abuse of process of law.

4. On the other hand, the learned Additional Public Prosecutor for the respondents contended that in view of the specific overt acts attributed to the petitioners, continuation of criminal proceedings against them cannot be said to be an abuse of process of law. He further contended that the allegations in the charge-sheet would indicate that the informant was put to lot of torture and harassment in the hands of the petitioners and this Court should interdict the proceedings by invoking Section 482 Cr.P.C.

5. Perused the entire material on record.

6. A bare perusal of the entire material on record discloses that specific overt acts are directed mainly against A1, who is the husband of the de facto complainant. No specific instances of any harassment are alleged against any of the petitioners herein. The only allegation made against the 2nd petitioner, the mother in-law, is that after returning in the month of January, 2009, the 2nd petitioner was alleged to have harassed the 2nd respondent in the same manner in which she used to harass her earlier. Except such bald allegation, no specific overt acts have been attributed to the 2nd petitioner. The contents of First Information Report and the charge-sheet do not disclose the nature of harassment made by the 2nd petitioner earlier. In the absence of any specific overt acts, continuation of proceedings would be an abuse of process of law.

7. In Kans Raj Vs. State of Punjab and Others, the Apex Court observed as follows:

...a tendency has, however, developed for roping in all relations of the in-laws of the deceased wives in the matters of dowry deaths which, if not discouraged, is likely to affect the case of the prosecution even against the real culprits. In their over enthusiasm and anxiety to seek conviction for maximum people, the parents of the deceased have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the real accused....

8. In Geeta Mehrotra and Another Vs. State of U.P. and Another, , the Apex Court observed as under

...if the FIR as it stands does not disclose specific allegation against the accused more so against the co-accused specially in a matter arising out of matrimonial bickering, it would be clear abuse of the legal and judicial process to mechanically send the named accused in the FIR to undergo the trial unless of course the FIR discloses specific allegations which would persuade the Court to take cognizance of the offence alleged against the relatives of the main accused who are prima facie not found to have indulged in physical and mental torture of the complainant wife. The Apex Court further observed that if the FIR did not disclose the commission of an offence the Court would be justified in quashing the proceedings preventing the abuse of process of law....

9. The facts in the instant case clearly show that continuation of criminal proceedings against the petitioners would be an abuse of process of law as no specific overt acts are alleged against any of the petitioners. No prima facie case is made out against any of the petitioners. In that view of the matter, continuation of proceedings against the petitioners is nothing but an abuse of process of the legal and judicial process. Accordingly, the criminal petition is allowed and the proceedings in CC No. 360 of 2009 on the file of the Court of II Additional Chief Metropolitan Magistrate, Vijayawada against the petitioners/A2 to A4 are quashed and the proceedings against A1, who is the husband of the 2nd respondent, remains un-interfered with. It is needless to mention that the trial Court shall proceed with the case against A1 and dispose of the same in accordance with law as expeditiously as possible preferably within a period of three months from the date of receipt of a copy of this order.

