

(2023) 02 TEL CK 0080

In the Telangana High Court

Case No : Criminal Petition No. 10104 Of 2022

Doppalapudi Syamsundara Babu

APPELLANT

Vs

State Of Telangana

RESPONDENT

Date of Decision : 20-02-2023

Acts Referred:

Indian Penal Code, 1860 — Section 406, 420, 498A, 506
Code Of Criminal Procedure, 1973 — Section 188
Dowry Prohibition Act, 1961 — Section 3, 4

Citation : (2023) 02 TEL CK 0080

Hon'ble Judges : K. Surender, J

Bench : Single Bench

Advocate : Papaiah Peddakula, S.Sudershan, J.C.Francis

Final Decision : Dismissed

Judgement

1. This Criminal Petition is filed seeking to quash the proceedings against the petitioner/A1 in C.C.No.451 of 2017 on the file of XIII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad.
2. Heard Sri Papaiah Peddakula, learned counsel for the petitioner, Sri S.Sudershan, learned Additional Public Prosecutor for the 1st respondent – State and Sri J.C.Francis, learned counsel for the 2nd respondent.
3. The 2nd respondent filed complaint stating that she was married to the petitioner on 30.10.2014. The marriage was on grand scale and the parents of the 2nd respondent gave gold ornaments and other gifts, which were given to this petitioner and his parents. Petitioner was living in US and after marriage, the 2nd respondent joined him in the US. Petitioner started harassing the 2nd respondent for Rs.15 lakhs to repay debts and she was compelled to lead a secluded life in the US. There were no acquaintances nor communication was permitted by the petitioner and over a period of time in the US, she was not even permitted to go to Church on Sundays and her communication with her friends and relatives were restricted.

4. There are several acts of harassment, which are narrated that have taken place in the US. The 2nd respondent delivered a male child in the US. Thereafter, she came back to India and started living with her father, mother and her son. Petitioner tortured the complainant physically and mentally during the period of her stay in the USA. After coming to India also she was harassed for additional dowry, for which reason, she filed the complaint. Jewellery that was given at the time of marriage and after the marriage was also misappropriated. On the basis of the complaint, the Court has taken cognizance of the complaint against the petitioner for the offence under Sections 498-A, 406, 506 and 420 of IPC and Sections 3 and 4 of Dowry Prohibition Act.

5. Learned counsel for the petitioner would submit that this Court by order dated 09.04.2021 in Criminal Petition No.12254 of 2017 had quashed the proceedings against A2 and A3, who are parents-in-law. Further, all the major allegations that are leveled against this petitioner are in the US, for which reason there is restriction imposed from taking cognizance unless the Central Government grants sanction.

6. Section 188 of the Cr.P.C reads as follows:

"188. Offence committed outside India. When an offence is committed outside India-

(a) by a citizen of India, whether on the high seas or elsewhere; or

(b) by a person, not being such citizen, on any ship or aircraft registered in India, he may be dealt with in respect of such offence as if it had been committed at any place within India at which he may be found:

Provided that, notwithstanding anything in any of the preceding sections of this Chapter, no such offence shall be inquired into or tried in India except with the previous sanction of the Central Government."

For the reason of there being no sanction, the cognizance taken by the learned Magistrate ignoring the provision under Section 188 of Cr.P.C has to be set aside.

7. On the other hand, learned counsel appearing for the 2nd respondent would submit that though the alleged harassment has taken place in US, the marriage was held in Hyderabad and subsequent to the 2nd respondent returning from US, she was staying in Hyderabad, for which reason, there is no necessity of obtaining sanction as required under Section 188 of Cr.P.C. He further argued that there has to be some evidence that has been collected outside India to enable grant of sanction by the Central Government. For the said reason, the proceedings against this petitioner have to be continued.

8. The offence under Section 498-A of IPC is continuing offence. Admittedly, the marriage had taken place in Hyderabad and she was compelled to return back to India along with her son. The acts of the petitioner herein in continuously harassing the 2nd respondent and the 2nd respondent allegedly coming back to

India unable to bear the harassment would amount to the offence taking place in Hyderabad also. The wife is forced to stay in Hyderabad as a consequence of harassment by husband in the USA. Her forced stay in her parents' house, in the said circumstances, is continuation of cruelty meted out on her.

9. Though the divorce was ultimately granted in the year 2022, it cannot be said that the proceedings against this petitioner are vitiated. In the said circumstances, when the 2nd respondent was forced to live in Hyderabad after being subjected to cruelty in the US, it cannot be said that the entire offence had taken place within the jurisdiction of US and there is a requirement of sanction from the Central Government under Section 188 of Cr.P.C. In such circumstances, when harassment is alleged against the husband in a foreign country and consequently, the wife is forced to return to India and stays in India, does not mean that the husband inflicting cruelty in the US only has to be considered and for the said reason sanction under Section 188 of Cr.P.C has to be obtained.

10. For the aforesaid reasons of continuation of harassment of the 2nd respondent, I am of the view that there is no necessity for obtaining sanction under Section 188 of Cr.P.C. There are no merits in the petition.

11. Accordingly, the Criminal Petition is dismissed. Miscellaneous applications pending, if any, shall stand closed.