

(2022) 03 TEL CK 0057

In the Telangana High Court

Case No : Criminal Petition No. 4155 Of 2017

Dubbaka Ravi Kumar Nizamabad Dist.

APPELLANT

Vs

Dubbaka Praveena Puti Praveena Another Rep. By P.P.

RESPONDENT

Date of Decision : 17-03-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 155(2), 156(1), 482
Indian Penal Code, 1860 — Section 420, 498A

Citation : (2022) 03 TEL CK 0057

Hon'ble Judges : Dr. G. Radha Rani, J

Bench : Single Bench

Advocate : M Vidyavathi

Final Decision : Dismissed

Judgement

1. This criminal petition is filed by the petitioner-A1 under Section 482 Cr.P.C. to quash the proceedings in CC No.17 of 2015 on the file of Judicial Magistrate of First Class, Nirmal, Adilabad District.

2. The case of the petitioner in brief was that the 2nd respondent filed charge sheet against him alleging that the 1st respondent – complainant filed a complaint before the Court, which was referred to the police and was numbered as Crime No.241 of 2005 on 10.12.2005 wherein the complainant stated that she was the legally wedded wife of the petitioner and their marriage was performed on 25.05.2003 at Vijaynagar colony, Nirmal as per their caste customs. At the time of marriage, her parents presented Rs.1,00,000/- net cash, a motor bike worth Rs.40,000/-, two tulas of gold chain and household utensils worth Rs.1,00,000/- to the petitioner. After marriage, they led happy married life only for a period of two months. Thereafter, the petitioner along with his parents, his brothers and their wives started harassing the complainant for additional dowry of Rs.2,00,000/-. She became pregnant, but A1 with the support of his family members forcibly admitted her in a hospital at Nizamabad on 20.04.2004 and got her aborted without her consent. A panchayat was conducted on 17.06.2004

and in the said panchayat, A1 executed a document titled as matrimonial settlement deed and agreed to return the dowry amount of Rs.1,00,000/- which was received at the time of marriage, the household articles and also agreed to pay Rs.33,000/- towards future maintenance. But, he failed to keep up his promise and avoided payment of the said amounts or return the household articles. Basing on the said complaint, police registered the above case for the offences under Sections 498-A and 420 IPC and after completing investigation, filed charge sheet against A1 for the above offences.

3. Heard the learned counsel for the petitioner and the learned Assistant Public Prosecutor.

4. The learned counsel for the petitioner submitted that the petitioner was an Advocate. The complainant suppressed the real facts and filed the present petition with false allegations. A1 stayed at Dubai, UAE for a period of four years from 4th September 2004 to 27th October 2007. He worked in a private sector during that period. The petitioner filed a petition for divorce vide OP No.108 of 2013 before the Family Court at Nizamabad. The complainant had not contested the matter. She was set ex-parte and an

ex-parte decree was passed on 31.07.2013. The complainant got married for the second time without obtaining divorce from the petitioner and had two children from the said marriage. The Maintenance Case filed by her vide MC No.18 of 2005 was dismissed for default on 11.11.2007. She was not interested to prosecute the cases filed by her. The parents and other relatives of the petitioner filed quash petition vide CrI.P. No.3914 of 2008 and the same was allowed on 08.04.2011 and prayed to allow the petition.

5. Learned Assistant Public Prosecutor reported to decide the petition on merits.

6. Perused the record. The charge sheet filed vide CC No.17 of 2015 on the file of the Judicial Magistrate of First Class, Nirmal would prima facie disclose that as per the investigation conducted by the Sub-Inspector of Police, Nirmal Town Police Station, A1 harassed the complainant for additional dowry of Rs.2,00,000/- and got her aborted suspecting her character and when the matter came up before the Panchayat, he agreed to return the dowry amount and household articles by executing written document, but failed to comply with the terms of the said document, as such committed the offences punishable under Sections 498-A and 420 IPC.

7. The Hon'ble Apex Court in State of Haryana v. Bhajanlal AIR 1992 SC 604 laid down seven (7) categories of cases in which the Court can quash the criminal proceedings. They are 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.

(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. As the allegations in the charge sheet would prima facie disclose the offences alleged against the petitioner and it was not established by the petitioner to show that the proceedings were attended with any malafides, it is considered not a fit case to quash the criminal case. Whether the 1st respondent - complainant was interested to proceed with the matter or not, can be looked after by the trial Court during the course of trial.

9. In the result, the Criminal Petition is dismissed. Miscellaneous petitions pending, if any, shall stand closed.