
(2014) 06 AP CK 0194

In the Andhra Pradesh High Court

Case No : Criminal Petition No. 2000 of 2012

Mohammed Yaseen and Others

APPELLANT

Vs

State of A.P. and Others

RESPONDENT

Date of Decision : 03-06-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 498-A

Citation : (2015) 1 ALT(Cri) 129 : (2015) 3 Crimes 279

Hon'ble Judges : S. Ravi Kumar, J

Bench : Single Bench

Advocate : Koneti Raja Reddy, Advocates for the Appellant

Judgement

S. Ravi Kumar, J.—This Criminal Petition is filed to quash F.I.R. in Crime No. 17 of 2012 on the file of Narayanpet Police Station, Mahbubnagar district. Heard advocate for petitioners and learned Public Prosecutor.

2. Advocate for petitioners submitted that second respondent herein earlier gave a complaint with the same allegations which was registered as Crime No. 38 of 2004 and the husband moved this court to quash the proceedings in Criminal Petition No. 592 of 2007 and the other accused against whom charge sheet is filed also moved this court to quash proceedings in CC and both the Criminal Petitions are allowed and proceedings are quashed. It is submitted that husband gave talaq to the second respondent herein wayback in 2007 and thereafter husband never lived with second respondent herein i.e., complainant therefore allegation that petitioners have demanded dowry on 27/11/2011 is a patent lie and it is only created for the purpose of complaint. He further submitted that this complaint is nothing but abuse of process of law particularly Section 498-A IPC and deserves to be quashed.

3. I have perused the material papers filed alongwith this criminal petition. Even from the allegations in the complaint, it is clear that a crime was registered by Narayanpet Police in Crime No. 38 of 2004 on the complaint given by second

respondent herein. According to the allegations in the complaint, proceedings against A-2 to A-5 were closed and the case against A-1 in respect of Crime No. 38 of 2004 is pending. As seen from the orders in Criminal Petition No. 592 of 2007, this court by order dated 22/03/2007 quashed the proceedings in Crime No. 38 of 2004 in respect of A-4 and this court in Criminal Petition No. 1072 of 2008 by an order dated 10/02/2011 quashed CC filed against A-2, A-3 and A-5 in pursuance of Crime No. 38 of 2004. It is clear from these two orders that earlier complaint given by the second respondent and the allegations of dowry harassment is not accepted in view of the fact that husband gave talaq in the year 2007 itself. When the material on record, prima facie disclose that there was a divorce between wife and husband there must be convincing positive material to support allegations of demand of dowry or alleged harassment towards additional dowry. In the complaint, except making a bald allegation that on 27/11/2011 A-2 to A-5 i.e., petitioners 2 to 5 herein, who are parents of the husband, brother and sister of the husband of second respondent went to the house of complainant at Narayanpet and demanded a sum of Rs. 25,000/- towards additional dowry, there is no specific details for the said allegations, but the learned Magistrate without verifying correctness of the allegations or the supporting material for the said allegations mechanically forwarded the said complaint and police have registered the complaint as F.I.R. in Crime No. 17 of 2000. Admittedly husband is residing at Singapore on account of his employment. Even in the complaint the address of the husband is given as employee in Sembawang Shipyard Private Limited, Post Box No. 3, Singapore. When the complainant is residing separately on account of talaq, the question of demanding additional dowry or causing harassment is a very remote chance, therefore without any convincing material the said allegations in the complaint cannot be accepted. Though talaq was given in the year 2007, the complaint is silent about the said fact and a mere reading of the complaint indicates that second respondent herein has suppressed material facts relating to earlier complaint and quashing of that complaint and talaq etc. As rightly pointed out by the learned counsel for petitioners when the material facts are suppressed and when there is no material supporting the allegations of demand of additional dowry attracting the ingredients of Section 498-A IPC forwarding the complaint mechanically to the police is not a proper exercise of judicial discretion which ultimately resulted in making the parents and relatives of the husband to appear before the police and criminal court. As rightly pointed by the Advocate for petitioners this case squarely falls within seven points that are formulated by the Hon"ble Supreme Court in State of Haryana and others Vs. Ch. Bhajan Lal and others, . One of the ground indicated in that decision which is applicable to the case on hand is mentioned hereunder:

(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. Here the facts clearly disclose that complaint is maliciously

filed only to harass the parents and relatives of the husband even after divorce that too seven years after the talaq.

4. For the above reasons, I am of the view that this is a fit case to exercise the powers under Section 482 Cr.P.C. to quash F.I.R. in Crime No. 17 of 2012 on the file of Narayanpet Police Station. Criminal Petition is allowed accordingly.