

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

Criminal Petition No.2967 OF 2017

Between:

P.Subba Reddy and others

... Petitioners

And

1.The State of Telangana,
Rep. by its Public Prosecutor
High Court at Hyderabad and another ..Respondent/Complainant

DATE OF JUDGMENT PRONOUNCED :16.11.2023

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

- 1 Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
- 2 Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No
- 3 Whether Their Ladyship/Lordship Wish to see their fair copy of the Judgment? Yes/No

K.SURENDER, J

*** THE HON'BLE SRI JUSTICE K. SURENDER**

+ CRL.P. No.2967 of 2017

% Dated 16.11.2023

P.Subba Reddy and others ... Petitioners

And

\$ The State of Telangana,
Rep by Public Prosecutor,
High Court, Hyderabad and another ... Respondent/Complainant

! Counsel for the Petitioners: Sri M/S Indus Law Firm

^ Counsel for the Respondents: Public Prosecutor for R1
Sri Kiran Palakurthi for R2

>HEAD NOTE:

? Cases referred

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION NO.2967 OF 2017

ORDER:

1. This Criminal Petition is filed to quash the proceedings against petitioners/A1 to A5 in C.C.No.265 of 2014 on the file of XIV Metropolitan Magistrate, Ranga Reddy District, L.B.Nagar.

2. The case of the 2nd respondent, who is wife of 1st petitioner/A1 is that their marriage was performed on 02.05.2004. At the time of marriage, dowry was given. A1 was working in pharmacy and after marriage A1 and complainant shifted to Chintal. In the year 2006, plot was purchased with the amount given towards dowry. In the year 2005, son was born and in the year 2007 a daughter. In the year 2008, house was purchased with the remaining Rs.2,50,000/-. An amount of Rs.6.00 lakhs was also obtained from the father of the complainant and bank loans. In the year 2008, A1 was transferred to Choutuppal. During 2010, A1's elder brother A3 started staying in the same locality at Choutuppal. A1 was having an affair with A5. A2, A3 and A4 used to visit

frequently the house of the 2nd respondent/complainant and used to torture her. A1 was asked to clear the debt taken from the father of the complainant, however the said plot was sold and money used for their own purpose. On 24.01.2013, A1 beat the complainant and demanded to get Rs.5.00 lakhs from her parents. A2 to A5 used to instigate A1. A1 went away after the incident on 24.01.2013. Elders were informed that A1 left the complainant and accordingly when questioned, A1 refused to join with the complainant. A1 took away all his documents and threatened the complainant and her mother with dire consequences.

3. On 06.06.2013, when the complainant and her mother were in the house, all these petitioners/A1 to A5 went to the house and shifted belongs and furniture in a DCM van. Then the complainant went to the police station and lodged the complaint. For the said reason, A1 caught hold of her hair and A2 beat with the stick. A3 broke the cell phone and A5 also dragged the mother of the complainant on to the road.

4. The police having investigated the complaint, filed final report deleting the names of petitioners 2 to 5.

5. However, protest petition was filed by the complainant. On the basis of the statement recorded, the learned Magistrate by order dated 02.09.2016 had taken cognizance against A2 to A5.

6. Learned counsel appearing for the petitioners would submit that the petitioner had filed petition seeking divorce from the complainant vide O.P.No.498 of 2013. The family Court Judge, after considering the evidence placed on record by order dated 27.04.2018 granted divorce dissolving the marriage between the 2nd respondent and the 1st petitioner/A1. Learned Family Court Judge found that the relations are strained and cases were filed against one another and on account of continuous litigation which was pending between the parties, the marriage had become redundant.

7. Learned counsel appearing for the petitioners would further submit that the conduct of the 2nd respondent had led to differences between the spouses. The police has investigated the complaint and dropped the case against A2 to A5. However, on the basis of protest petition filed urging the Court to take cognizance, learned Magistrate had taken cognizance

only on the basis of statement made stating that A2 to A5 assaulted the 2nd respondent. The said assault is an improvement to her earlier statement. In the said circumstances, the proceedings have to be quashed.

8. On the other hand, learned counsel appearing on behalf of the 2nd respondent would submit that there are specific allegations of beating and demand for additional dowry and it is for the trial Court to decide after examination of the witnesses regarding the complicity of the accused. At the threshold, the proceedings cannot be quashed.

9. Admittedly, there are disputes in between the spouses resulting in cases being filed against one another. The police, having examined the witnesses found that there was no involvement of the petitioners/A2 to A5 and accordingly dropped the proceedings. The 2nd respondent was in the in-law's house only for a month after marriage and thereafter, she started living with A1 at Hyderabad separately for four years. Both of them lived happily and 2nd respondent gave birth to a son and a daughter. The allegation is that at the instigation of A2 to A5, A1 started harassing her mentally and

physically. In the complaint made on 07.06.2013, nothing specific is mentioned about the petitioners/A2 to A5 except stating that all the petitioners/A2 to A5 were instigating A1. Specifically three instances were narrated in the complaint. On 24.01.2013, A1 beat the 2nd respondent and asked her to get additional dowry. On 12.02.2013, A1 along with petitioners 2 to 5 went to the house where the 2nd respondent was living along with her mother and took his documents. They abused her and her mother in vulgar language. Again on 06.06.2013, A1 to A5 went to the house of 2nd respondent and 2nd respondent was beaten.

10. Admittedly, the marriage had taken place in the year 2004. Since the year 2004, A1 and the 2nd respondent were living separately till the date of lodging the complaint. Petitioners 2 to 5, according to the defacto complainant accompanied A1 to the house when A1 had beaten the defacto complainant. There is no specific allegation leveled against A2 to A5 except for their presence on the said dates. However, after the police deleted the names of petitioners 2 to 5 and protest petition was filed, the 2nd respondent stated that the

father-in-law, sister-in-law also caught her hair and she was beaten. The said allegation appears to be made up for the purpose of implicating the petitioners 2 to 5. There is no reason why all the petitioners 2 to 5 would accompany A1. Initially, it was alleged that A1 had beaten her in the presence of A2 to A5, however, no overt accts were attributed to them.

11. The offence under Section 498-A of IPC is made out when the wife is treated with cruelty. Cruelty is defined as any willful conduct which is of such a nature as likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman. Secondly, any harassment of the woman where such harassment is with a view to coercing her any person related to her to meet any unlawful demand for property, amounts to cruelty.

12. Even accepting that the petitioners 2 to 5 had accompanied A1 on two occasions when they have gone to the house of 2nd respondent, it does not fulfill the ingredients of 'cruelty' as explained under Section 498-A of IPC.

13. In the result, the proceedings against petitioners 2 to 5/A2 to A5 in C.C.No.265 of 2014 on the file of XIV Metropolitan Magistrate, Ranga Reddy District, L.B.Nagar, are hereby quashed. The prayer of A1 to quash the proceedings is refused and A1 shall face trial.

14. Accordingly, the Criminal Petition is allowed in part. Consequently, miscellaneous applications, if any, shall stand closed.

Date: 16.11.2023
Note: LR copy to be marked.
B/o.kvs

K.SURENDER, J