

APHC010288952023



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3327]

MONDAY, THE SIXTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE K SREENIVASA REDDY

CRIMINAL PETITION NO: 4352/2023

Between:

1. POOJARI VENKATA RAMANA, S/O. LATE VENKATA RAMANA, AGED ABOUT 63 YEARS, R/O. HORSELY HILLS, B.KOTHAKOTA MANDAL, CHITTOOR DISTRICT.
2. POOJARI NARAYANAMMA, W/O. VENKATA RAMANA, AGED ABOUT 61 YEARS, R/O. HORSELY HILLS, B.KOTHAKOTA MANDAL, CHITTOOR DISTRICT.
3. POOJARI NAGARAJU,, S/O. VENKATA RAMANA, AGED ABOUT 36 YEARS, RESIDING AT D.NO. FLAT NO.420, VR MEADOWS APARTMENTS, MARGONDANAHALLI, BOMANASANDRA, BANGALORE, KARNATAKA STATE.

...PETITIONER/ACCUSED(S)

AND

1. STATE REP BY ITS PUBLIC PROSECUTOR, REP. BY IT'S PUBLIC PROSECUTOR, AMARAVATHI, ANDHRA PRADESH.
2. CHOKKAKULA SUDHA, W/O. POOJARI RAMESH, D/O. VENKATA RAO, AGED ABOUT 28 YEARS, R/O KATAKAPALLI VILLAGE, KOTHAVALSA MANDAL, VIZIANAGARAM DISTRICT.

...RESPONDENT/COMPLAINANT(S):

Petition under Section 437/438/439/482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court pleased to quash the proceedings in

C.C.No.110 of 2021 on the file of the Court of the Honourable Judicial Magistrate of First Class, Kothavalsa and pass

IA NO: 1 OF 2023

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to dispense with the certified copy of to dispense with the certified copy of the Charge Sheet in C.C.No.110 of 2021 for the alleged offences under 498A. 406 r/w IPC and Section 3.4 and 6 of Dowry prohibition Act, 1961, on the file of Honourable Judicial Magistrate of First Class. Kothavals Vizianagaram District. in the interests of justice.

IA NO: 2 OF 2023

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to grant stay of all further proceedings in C.C.No.110 of 2021 on the file of the Court of the Honourable Judicial Magistrate of First Class, Kothavalsa including dispensing with the presence of the petitioners. pending disposal of the Criminal Petition and pass

Counsel for the Petitioner/accused(S):

1.VUBBARA DUSHYANTH REDDY

Counsel for the Respondent/complainant(S):

1.PUBLIC PROSECUTOR (AP)

THE HON'BLE SRI JUSTICE K SREENIVASA REDDY

Criminal Petition No.4352 of 2023

ORDER:

This Criminal Petition has been filed by the petitioners/accused Nos.2 to 4 under Section 482 of Cr.P.C. seeking to quash the proceedings in C.C.No.110 of 2021 on the file of the learned Judicial Magistrate of First Class, Kothavalsa, for the alleged offences punishable under Sections 498-A and 406 read with 34 of Indian Penal Code, 1860 (for brevity 'IPC') and Sections 3, 4 and 6 of Dowry Prohibition Act, 1961 (for brevity 'the DP Act, 1961').

2. Brief facts of the case are that, 2nd respondent/*de facto* complainant, a resident of Katakapalli Village, Vizianagaram District, came into acquaintance with A1 during her Intermediate studies in the year 2014–2015, and A1 proposed to marry her. On 01.03.2015, A1 along with A4 took 2nd respondent/*de facto* complainant to Madanapalli without the knowledge of her parents and on 04.03.2015 performed marriage with her at Sri Venkateswara Swamy Temple in the presence of A2 to A4. Thereafter, 2nd respondent/*de facto* complainant started residing with A1 and her in-laws, and her family members provided cash and gold ornaments at the time of marriage and subsequent occasions. It is alleged that after some time A1 and the other accused subjected 2nd respondent/*de facto* complainant to mental and physical harassment and demanded money on several occasions. The parents of 2nd respondent/*de facto* complainant were alleged to have paid various amounts,

including Rs.2,00,000/-, to meet the demands of A1. Due to the alleged harassment, 2nd respondent/*de facto* complainant repeatedly returned to her parental home and later rejoined A1. However, the accused alleged to have continued their harassment towards her, and on 28.06.2020 A1 asked LW.2-C.Muralikrishna, father of 2nd respondent/*de facto* complainant to take back to her parental home.

3. Learned counsel for the petitioners submits that all the allegations are directed against accused No.1 and there is no resemblance of evidence as against the petitioner Nos.1 to 3/accused Nos.2 to 4 except mentioning the names of the petitioner Nos.1 to 3/accused Nos.2 to 4. Learned counsel for the petitioners further submits that the marriage of the accused No.1 and 2nd respondent/*de facto* complainant was performed about 7 years back and pursuant to the marriage, the accused No.1 and 2nd respondent/*de facto* complainant stayed separately. Accused Nos.2 and 3 are the parents of accused No.1, accused No.3 is the brother of accused No.1 and they are living separately as accused No.1 and 2nd respondent/*de facto* complainant are living in Bangalore.

4. Learned counsel for the petitioners further submits that a notice has been carried out to 2nd respondent herein and in respect of the same, a memo has been filed to show that the notice has been carried out to 2nd respondent. A perusal of the memo goes to show that on 27.09.2023 notice has been issued by the petitioner herein was delivered to the address mentioned in the

petition. Though the notice was delivered to 2nd respondent, none appeared on her behalf.

5. Heard learned counsel for the petitioners and learned Assistant Public Prosecutor for the respondents.

6. A perusal of the material on record goes to show that 2nd respondent/*de facto* complainant is the native of Katakapalli Village, Kothavalasa Mandal, Vizianagaram District. They are two children to her parents Chokkakula Venkata Rao and Chokkakula Satyavathi and her elder brother is Chokkakula Murali Krishna. 2nd respondent/*de facto* complainant studied Intermediate at Pragathi College, Kothavalasa for the Academic Year 2014-15. While 2nd respondent/*de facto* complainant was going to college in the year 2014, got acquaintance with accused No.1 over phone. Accused No.1 used to visit college of 2nd respondent/*de facto* complainant and proposed his love by saying that he would marry her. In the meantime L.W-3-C.Venkata Rao, also made some marriage alliance to 2nd respondent/*de facto* complainant and fixed a match at Jami village and she informed the same to accused No.1 over phone. On receipt of the same, on 01.03.2015 accused Nos.1 to 4 came to Kothavalasa in a car and took 2nd respondent/*de facto* complainant to Madanapalli, Chittoor District without knowledge of her parents. On 04.03.2015, the marriage of 2nd respondent/*de facto* complainant was performed with accused No.1 in the presence of accused Nos.2 to 4 at Venkateswara Swamy temple at Madanapalli. Later, 2nd respondent/*de facto* complainant informed the marriage matter to L.W-3-C.Venkata Rao through

phone call. On hearing such information, L.W-3, 5 & 6 i.e., C.Venkata Rao, C.Bangarunaidu and K.Sanyasi Naidu respectively, rushed to Madanapalle village with a view to bring back 2nd respondent/*de facto* complainant but accused Nos.1 to 4 did not agree for the same and the neighbors also assured them regarding the safety of 2nd respondent/*de facto* complainant. After one month, L.Ws 3-C.Venkata Rao & 4-C.Satyavathi went to Madanapalli for attending 2nd respondent/*de facto* complainant's marriage reception and gave an amount of Rs.50,000/- and two thulas gold chain and gold rings to accused Nos.1 to 4 and after one month thereafter, accused No.1 shifted his family to Bangalore, for which L.W-2-C.Murali Krishna, went to Bangalore and purchased some house hold articles worth about Rs.60,000/- for starting new conjugal life of 2nd respondent/*de facto* complainant. Later at the time of Rajahmundry Puskaralu, 2nd respondent/*de facto* complainant, A2 and A3 came to Katakapalli village and L.W-3-C.Venkata Rao gave an amount of Rs.50,000/- to A2 and A3 for the purpose of job opportunities of A1. Later in the year 2016 2nd respondent/*de facto* complainant came to Katakapalli Village for attending L.W-2-C.Murali Krishna's marriage and on the immediate next day of marriage of A1 took 2nd respondent/*de facto* complainant to Bangalore with an amount of Rs.1,75,000/- which was given by L.W-3-C.Venkata Rao & L.W-4-C.Satyavathi towards adapaduchu laanchanalu. After 15 days of that occasion, A1 tortured 2nd respondent/*de facto* complainant for which 2nd respondent/*de facto* complainant phoned to L.W-2-C.Murali Krishna and

requested to take her to maternal home owing to unbearable torture of A1. Due to unbearable torture of A1, LW.1-C.Sudha stayed at her maternal home.

7. A perusal of the contents of the charge sheet goes to show that all the allegations are directed against accused No.1. There are no specific accusations that have been made as against the petitioners herein except stating that the marriage of respondent No.2 was performed in the presence of A2 to A4. It is alleged that accused Nos.1 to 4 did not the respondent No.2 from her parental home. Except the said accusation, there is no material on record to show that the petitioners either harassed 2nd respondent/*de facto* complainant or induced accused No.1 to harass 2nd respondent/*de facto* complainant. Merely because the petitioners herein did not send respondent No.2 along with L.W.5-C.Bangarunaidu and LW.6-K.Sanyasi Naidu, the said accusation would not in any way come within the purview of Section 498-A IPC.

8. It is pertinent to mention herein that the learned Assistant Public Prosecutor for the State submits that going by the statement of 2nd respondent/*de facto* complainant, it is alleged that the petitioners have supported the accused No.1 in harassing her.

9. A vague and blunt statement which has been given at a belated stage cannot be taken into account. Time and again this Court and Hon'ble Apex Court was consistent in holding that if no material has been find as against the

family members of the A1, both the Courts are consistent in quashing the proceedings as against the family members of accused No.1.

10. On this aspect, it is pertinent to refer to the judgment of the Hon'ble Apex court in ***State of Haryana Vs. Ch.Bhajanlal and ors.***¹, wherein the Apex Court held,

"In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(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;

¹ ***AIR 1992 SC 604***

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. 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.”

11. Learned counsel for petitioners relied on a decision in ***Preeti Gupta and another v. State of Jharkhand & another***², wherein it was held thus: (paragraphs 30 to 34).

“30. It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country including this Court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of the society.

31. The courts are receiving a large number of cases emanating from Section 498-A of the Penal Code which reads as under:

“498-A. *Husband or relative of husband of a woman subjecting her to cruelty.*—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.— For the purposes of this section, ‘cruelty’ means—

(a) any wilful conduct which is of such a nature as is 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; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”

32. It is a matter of common experience that most of these complaints under Section 498-A IPC are filed in the heat of the

² (2010) 7 SCC 667

moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious concern.

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fibre, peace and tranquillity of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations."

12. He also relied on a decision of the Hon'ble Apex Court in ***Mirza Iqbal @ Golu and another v. State of Uttar Pradesh and another***³, wherein it was held thus: (paragraphs 11 and 12).

"**11.** The appellants are brother-in-law and mother-in-law respectively of the deceased. A perusal of the complaint filed by the 2nd respondent, pursuant to which a crime was registered, does not indicate any specific allegations by disclosing the

³ 2021 SCC OnLine SC 1251

involvement of the appellants. It is the specific case of the 1st appellant that he was working as a cashier in ICICI Bank at Khalilabad branch, which is at about 40 kms from Gorakhpur. The alleged incident was on 24.07.2018 at about 8 p.m. When the investigation was pending, the 1st appellant has filed affidavit before Senior Superintendent of Police on 08.08.2018, giving his employment details and stated that he was falsely implicated. It was his specific case that during the relevant time, he was working at ICICI Bank, Khalilabad branch, Gorakhpur and his mother was also staying with him. The Branch Manager has endorsed his presence in the branch, showing in-time at 09 : 49 a.m. and out-time at 06 : 25 p.m. Even in the statement of 2nd respondent recorded by the police and also in the final report filed under Section 173(2) of Cr.P.C., except omnibus and vague allegations, there is no specific allegation against the appellants to show their involvement for the offences alleged. This Court, time and again, has noticed making the family members of husband as accused by making casual reference to them in matrimonial disputes. Learned senior counsel for the appellants, in support of her case, placed reliance on the judgment of this Court in the case of *Geeta Mehrotra v. State of Uttar Pradesh*¹. In the aforesaid case, this Court in identical circumstances, has quashed the proceedings by observing that family members of husband were shown as accused by making casual reference to them. In the very same judgment, it is held that a large number of family members are shown in the FIR by casually mentioning their names and the contents do not disclose their active involvement, as such, taking cognizance of the matter against them was not justified. It is further held that taking cognizance in such type of cases results in abuse of judicial process. Paras 18 and 25 of the said judgment, which are relevant for the purpose of this case, read as under:

“**18.** Their Lordships of the Supreme Court in *Ramesh case* [(2005) 3 SCC 507 : 2005 SCC (Cri) 735] had been pleased to hold that the bald allegations made against the sister-in-law by the complainant appeared to suggest the anxiety of the informant to rope in as many of the husband's relatives as possible. It was held that neither the FIR nor the charge-sheet furnished the legal basis for the Magistrate to take cognizance of the offences alleged against the appellants. The learned Judges were pleased to hold that looking to the allegations in the FIR and the contents of the charge-sheet, none of the alleged offences under Sections 498-A, 406 IPC and Section 4 of the Dowry Prohibition Act were made against the married sister of the complainant's

husband who was undisputedly not living with the family of the complainant's husband. Their Lordships of the Supreme Court were pleased to hold that the High Court ought not to have relegated the sister-in-law to the ordeal of trial. Accordingly, the proceedings against the appellants were quashed and the appeal was allowed.

25. However, we deem it appropriate to add by way of caution that we may not be misunderstood so as to infer that even if there are allegations of overt act indicating the complicity of the members of the family named in the FIR in a given case, cognizance would be unjustified but what we wish to emphasise by highlighting is that, 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. It is the well-settled principle laid down in cases too numerous to mention, 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. Simultaneously, the courts are expected to adopt a cautious approach in matters of quashing, especially in cases of matrimonial disputes whether the FIR in fact discloses commission of an offence by the relatives of the principal accused or the FIR prima facie discloses a case of overimplication by involving the entire family of the accused at the instance of the complainant, who is out to settle her scores arising out of the teething problem or skirmish of domestic bickering while settling down in her new matrimonial surrounding."

12. From a perusal of the complaint filed by the 2nd respondent and the final report filed by the police under Section 173(2) of Cr.P.C., We are of the view that the aforesaid judgment fully supports the case of the appellants. Even in the counter affidavits filed on behalf of respondent nos. 1 and 2, it is not disputed that the 1st appellant was working in ICICI Bank at Khalilabad branch, but merely stated that there was a possibility to reach Gorakhpur by 8 p.m. Though there is an allegation of

causing injuries, there are no other external injuries noticed in the postmortem certificate, except the single ante-mortem injury i.e. ligature mark around the neck, and the cause of death is shown as asphyxia. Having regard to the case of the appellants and the material placed on record, we are of the considered view that except vague and bald allegations against the appellants, there are no specific allegations disclosing the involvement of the appellants to prosecute them for the offences alleged. In view of the judgment of this Court in the case of *Geeta Mehrotra*¹, which squarely applies to the case of the appellants, we are of the view that it is a fit case to quash the proceedings.”

13. He also placed reliance on a decision in ***Kahkashan Kausar @***

Sonam Vs State Of Bihar⁴, wherein it was held as follows :

18. “The above-mentioned decisions clearly demonstrate that this court has at numerous instances expressed concern over the misuse of [section 498A](#) IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.

22. Therefore, upon consideration of the relevant circumstances and in the absence of any specific role attributed to the accused appellants, it would be unjust if the Appellants are forced to go through the tribulations of a trial, i.e., general and omnibus allegations cannot manifest in a situation where the relatives of the complainant’s husband are forced to undergo trial. It has been highlighted by this court in varied instances, that a criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused, and such an exercise must therefore be discouraged.”

⁴ 2022 LiveLaw (SC) 141

14. The main contention of the learned counsel for the petitioners is that an omnibus accusation has been made against the petitioners and no specific overt-act has been attributed against them.

15. Time and again, the Hon'ble Apex Court and this Court categorically held that a tendency has been developed for roping in all the relatives of the husband in dowry harassment case in order to browbeat and pressurize the immediate family members of the husband and the accusations against the relatives of the husband, if omnibus in nature, have to be curtailed at the threshold. All the accusations that are made against the petitioners/A2 to A4 are either vague or general in nature. No specific instances have been mentioned in the report. The allegations, if any, in the charge sheet would not come within the definition of 'cruelty' as defined under Section 498-A IPC. In the facts and circumstances of the case, this Court is of the opinion that continuation of the impugned proceedings against the petitioners/A2 to A4 would amount to abuse of process of Court. Since this Court has come to the conclusion that no specific accusation has been made as against the petitioners/A2 to A4 and on that ground alone, this Court is inclined to quash the impugned proceedings.

16. For the foregoing reasons, the Criminal Petition is allowed and the proceedings in C.C.No.110 of 2021 on the file of the learned Judicial Magistrate of First Class, Kothavalasa, are hereby quashed only as against the petitioners/A2 to A4 herein.

As a sequel thereto, the miscellaneous applications, if any, pending in this Criminal Petition shall stand closed.

JUSTICE K. SREENIVASA REDDY

16.03.2026
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THE HON'BLE SRI JUSTICE K.SREENIVASA REDDY

Criminal Petition No.4352 of 2023

Date: 16.03.2026

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