

THE HONOURABLE SMT. JUSTICE T. MADHAVI DEVI

CRIMINAL PETITION NO.6110 OF 2022

AND

CRIMINAL PETITION NO.6074 OF 2022

COMMON ORDER

These two Criminal Petitions are filed by accused Nos.1 to 3 in C.C.No.1873 of 2022 on the file of the III Additional Junior Civil Judge-cum-III Additional Metropolitan Magistrate, Ranga Reddy. Accused No.1 is the husband of the *de facto* complainant, i.e., respondent No.2 herein, while accused Nos.2 and 3 are the parents of accused No.1. These petitions are filed under Section 482 of the Code of Criminal Procedure (Cr.P.C.) seeking quashing of the proceedings in C.C.No.1873 of 2022.

2. Brief facts as stated in the complaint leading to the filing of the present quash petitions are that the *de facto* complainant and accused No.1 were both working in USA on employment Visa. On 03.10.2014, in the presence of the parents of both the parties, their marriage was performed at New Jersey, USA as per Hindu customs. The authority, officer of the Bergen County, New Jersey has attended the marriage and

issued a marriage certificate on 07.10.2014 and the marriage was consummated at USA. Out of the wedlock, the couple was blessed with a son on 08.06.2016. Subsequently, the parents of accused No.1, i.e., accused Nos.2 and 3, visited accused No.1 and the *de facto* complainant at USA and stayed there for 5 months and they returned to India thereafter. It is submitted that the *de facto* complainant came to India in February, 2020 along with her brother and accused No.1 to celebrate the retirement function of her mother Smt. A.Bharathi. On the date of her return from India, there was an altercation between the *de facto* complainant and accused No.1 and thereafter, the couple returned to USA on 21.03.2020. Alleging that (i) accused Nos.1 to 3 have demanded cash, gold and other articles towards dowry at the time of the marriage; and that (ii) accused No.1 was consuming alcohol heavily and used to pick up quarrels and beat her on 16.02.2016; and that (iii) during their stay at USA, accused Nos.2 and 3 have demanded for additional dowry; and that (iv) the complainant has given cash to accused No.1, who promised to purchase some properties in the name of the complainant but the same were purchased in the name of the accused, the father of the *de facto* complainant, as a GPA holder of the complainant, lodged a police complaint in India on 15.12.2021 and the

same was registered as Crime No.494 of 2021 on the file of Women Police Station, Rachakonda District under Sections 498A, 417, 406 and 506 of Indian Penal Code (for short, 'IPC') and Sections 3, 4 and 6 of Dowry Prohibition Act. The police took up investigation and have filed charge sheet *vide* C.C.No.1873 of 2022 against accused Nos.1 to 3.

3. Accused Nos.1 to 3 have now filed the present quash petitions stating that the complaint by the *de facto* complainant could not have been filed through her GPA holder, but the police, without verifying the same and in a mechanical manner, entertained the said complaint and registered the case and have even filed the charge sheet thereafter, which is nothing but abuse of process of law and therefore, the proceedings pending against the petitioners are liable to be quashed. It is submitted that from the incident of marriage to the alleged incidents of consuming alcohol and beating the *de facto* complainant and alleged demands of additional dowry have all allegedly taken place in USA and therefore, no incidents have taken place in India, on the basis of which the complaint lodged at Hyderabad can be entertained against the petitioners herein. It is further submitted that though, in the charge sheet it was referred that on 21.03.2020, the accused abused respondent No.2 at

Hyderabad, at no point of time has the respondent No.2 submitted any complaint to the police or to the elders with regard to the alleged incident. It is submitted that it is after 21 months of the said incident that respondent No.2 has filed the present complaint at Hyderabad and therefore, there is abnormal delay in submitting the report to the police which itself shows falsity of the complaint. It is submitted that respondent No.2 has filed the complaint with bald and baseless allegations without any reference to any specific overt acts and for this reason also, the charge sheet is liable to be quashed. It is submitted that when the allegations against the petitioners do not constitute the offences as alleged against the petitioners, continuation of the proceedings against them is nothing but abuse of process of law and therefore are liable to be quashed. It is further submitted that since January, 2021 respondent No.2 and accused No.1 were living separately and therefore, the question of accused No.1, abusing her does not arise and therefore, the proceedings against the petitioners herein on the strength of such baseless allegations are liable to be quashed. It is submitted that for the *de facto* complainant, this is the third marriage and for accused No.1, it is the second marriage and the earlier marriage of the *de facto* complainant had also ended in a complaint filed by her

against the husband alleging the offences under Sections 406, 420 and 498A of IPC and Sections 4 and 6 of the Dowry Prohibition Act and the said marriage was dissolved in USA through Court decree and therefore, it is clear that the *de facto* complainant is a habitual litigant and is in the habit of filing false cases against her husband and in-laws. Even with regard to the alleged sole incident in India, it was only with regard to the accusation of the extra marital affair of accused No.1 and was not in any way related to the alleged harassment for additional dowry and therefore, it does not constitute the offence as alleged. It is further submitted that accused No.1 has filed a divorce case against the *de facto* complainant in USA and as a counter blast case, respondent No.2 has filed the present case in India. It is submitted that under Section 188 of Cr.P.C., where an offence involving an Indian citizen is committed outside India, the trial should not be proceeded with without the previous sanction of the Central Government. It is submitted that in this case, no such sanction has been obtained by the police and hence the case proceedings have to be quashed.

4. Learned Senior Counsel, Sri T.Pradyumna Kumar Reddy, representing Sri S.Surender Reddy, learned counsel for the petitioners,

has reiterated the above submissions and has also placed reliance upon the following decisions in support of the above contentions.

(1) Manik Taneja and another Vs. State of Karnataka and another¹.

(2) Abhishek Vs. State of Madhya Pradesh².

(3) Nerella Chiranjeevi Arun Kumar Vs. State of Andhra Pradesh and another³.

(4) Thota Venkateswarlu Vs. State of Andhra Pradesh through Principal Secretary and another⁴.

(5) Thotapally Sai Prasanna Kumar Vs. The State of Telangana through Station House Officer, PS Subedari, Warangal⁵.

(6) Bhanu Prasad Variganji Vs. State of Telangana rep. by its Principal Secretary, Home Department⁶.

5. On behalf of the *de facto* complainant, learned Senior Counsel Sri D. Prakash Reddy representing Sri Ch.Ravinder, learned counsel, has appeared and submitted that though the marriage and other incidents have admittedly happened in USA, there was one incident of demand for

¹ (2015) 7 SCC 423

² 2023 SCC OnLine SC 1083

³ 2021 SCC OnLine SC 3392

⁴ (2011) 9 SCC 527

⁵ CrI.P.2173 of 2016 dt.04.02.2022

⁶ W.P.No.41432 of 2018 dt.16.03.2020

additional dowry in India when the *de facto* complainant and accused No.1 visited India in the month of March, 2020 and even if one incident has happened in India, there is no requirement of obtaining previous sanction of the Central Government to proceed with the trial. He therefore submitted that there are no grounds for quashing of the proceedings against the petitioners herein. The learned Senior Counsel has also placed reliance upon the following judgments in support of his contentions.

- (1) **Padal Venkata Rama Reddy Vs. Kovvuri Satyanarayana Reddy⁷.**
- (2) **Central Bureau of Investigation Vs. Aryan Singh etc.⁸**
- (3) **Pramod RS Vs. State of Karnataka through Lakshmipuram Police Station Ref. by State Public Prosecutor⁹.**
- (4) **Ajay Aggarwal Vs. Union of India and others¹⁰.**
- (5) **Thota Venkateswarlu Vs. State of Andhra Pradesh through Principal Secretary and another (4 supra).**
- (6) **Sartaj Khan Vs. State of Uttarakhand¹¹**

⁷ (2011) 12 SCC 437

⁸ 2023 SCC OnLine SC 379

⁹ 2023 SCC OnLine Kar 26 : (2023) 4 Kant LJ 613

¹⁰ (1993) 3 SCC 609

6. Having regard to the rival contentions and the material on record, this Court finds that the legal ground raised in these quash petitions is that previous sanction of the Central Government has to be obtained before proceeding with the trial of the subject case in India under Section 188 of Cr.P.C., and for failure to do so, the proceedings are liable to be quashed. Therefore, in order to ascertain the legal position, it is necessary to reproduce the said provision as under:

“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 any 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.”

7. Admittedly, in this case, accused No.1 is a citizen of India and was residing in USA when accused No.1 and respondent No.2 herein have performed their marriage and have lived in USA and were blessed

¹¹ 2022 SCC OnLine SC 360

with one child, who was also born in USA and they were also ultimately granted divorce in USA. Therefore, it is clear that all the alleged offences have been committed in USA except for one instance which allegedly happened in India. Thus, it has to be examined as to whether the provisions of Section 188 of Cr.P.C. would apply in this case. The law interpreted by the Courts in the precedents relied upon by the learned Senior Counsel appearing for the petitioners as well as the respondents is as under:-

8. In the case of **Thota Venkateswarlu Vs. State of Andhra Pradesh through Principal Secretary and another** (4 supra), the Hon'ble Supreme Court has held that no previous sanction would be required from the Central Government in terms of the Proviso to Section 188 of Cr.P.C., where an offence is committed outside India by an Indian Citizen up to the stage of taking cognizance of an offence, but the trial cannot be proceeded with beyond cognizance stage without such previous sanction from the Central Government. Further, the Hon'ble Supreme Court has held that in respect of offences committed in India, the learned Magistrate may proceed with the trial relating to the offence alleged to have been committed in India but shall not proceed with the

trial in respect of the offence alleged to have been committed outside India without prior sanction of Central Government as envisaged in the Proviso to Section 188 of Cr.P.C.

9. In **Bhanu Prasad Variganji Vs. State of Telangana rep. by its Principal Secretary, Home Department** (6 supra), the learned Single Judge of this Court, after considering the provisions of Section 188 of Cr.P.C. and also the orders of this Court in the case of **Rajesh Gutta Vs. State of Andhra Pradesh and another**¹² as well as the judgment of the Hon'ble Supreme Court in the case of **Thota Venkateswarlu Vs. State of Andhra Pradesh through Principal Secretary and another** (4 supra), has held that where the alleged offences have occurred outside India, the proceedings cannot be conducted without obtaining the prior approval of the Government of India. Similar decision was rendered in the case of **Thotapally Sai Prasanna Kumar Vs. The State of Telangana through Station House Officer, PS Subedari, Warangal** (5 supra).

10. In the decisions relied upon by the learned Senior Counsel appearing for the *de facto* complainant, the Hon'ble Supreme Court in

¹² (2011) 1 ALD (CrI.) 885 (AP)

the case of **Padal Venkata Rama Reddy Vs. Kovvuri Satyanarayana Reddy** (7 supra) has held that the High Court, while exercising power under Section 482 of Cr.P.C., need not analyse each and every aspect of the case meticulously before trial to find out whether the case would end in conviction or acquittal, but it would suffice if it exercised its inherent powers only in a case in which the complaint does not disclose any offence or is frivolous, vexatious or oppressive. He submitted that in the case before this Court, in the complaint given by the *de facto* complainant, the allegations are given in detail along with the specific dates of incidents and therefore, this Court should not interfere under Section 482 of Cr.P.C.

11. In the case of **Pramod RS Vs. State of Karnataka through Lakshmipuram Police Station Ref. By State Public Prosecutor** (9 supra), it was held that when the matter is at the stage of investigation, quashment of proceedings against the petitioner/husband would not arise on the ground that the complaint is registered immediately after receipt of the legal notice caused by the petitioner. It was observed that only on the ground that the complaint is filed after receipt of notice of divorce from the hands of the husband, the criminal case cannot be quashed and

hence the learned Senior Counsel for the *de facto* complainant submitted that the Criminal Petitions are liable to be dismissed on this ground alone.

12. The learned Senior Counsel appearing for respondent No.2 also relied upon the very same decision of the Hon'ble Supreme Court in the case of **Thota Venkateswarlu Vs. State of Andhra Pradesh through Principal Secretary and another** (4 supra) to submit that even if one incident has occurred in India, there was no requirement to take previous sanction from the Central Government under Section 188 of Cr.P.C., for trial of all the other incidents outside India. He submitted that the Hon'ble Supreme Court, while analysing the provisions of Section 188 of Cr.P.C., has held that the Section gets attracted only when the entirety of offence is committed outside India and previous sanction would enable such offence to be enquired into and tried in India and where a part of the offence was definitely committed on the soil of this country and as such going with normal principle, the offence could be looked into and tried by Indian Courts and since the offence was not committed in its entirety outside India, the matter would not come within the scope

of Section 188 of Cr.P.C. and there was no necessity of any sanction as mandated by the Proviso to Section 188 of Cr.P.C.

13. Having regard to the above submissions of both the parties as well as the precedents on the issue cited by the parties, it is clear that only the offence which is committed in India by an Indian Citizen can be tried in India and no sanction of the Central Government for the same is required, but when the offences are allegedly committed outside India by a citizen of India, then previous sanction of the Central Government is required for the trial to commence. In the case on hand, except for the sole incident or allegation of an altercation between the husband and wife, i.e., the *de facto* complainant and accused No.1 in India, there are no other allegations against accused Nos.2 and 3 of having committed the same in India. After going through the complaint of the *de facto* complainant, a copy of which is filed in the petition papers, it is noticed that in February, 2020, the *de facto* complainant and her husband had come to India and on 21/22.03.2020 intervening night, there was an altercation in respect of the extra marital affair of accused No.1 with another woman who was residing in USA. However, there is also an allegation that at that point of time, accused Nos.1, 2 and 3 have

demanded additional dowry, immediately after the recital of the same, the *de facto* complainant has given the details of the money given by her and her parents to the petitioners and as to how the money has been spent for purchase of properties in the name of accused No.1 and not in the name of the *de facto* complainant. Therefore, the alleged incident which has happened in India also did not make out the case of alleged offences. The contention of the learned Senior Counsel for the *de facto* complainant that even if one incident has occurred in India, then previous sanction of the Central Government is not necessary, is not in accordance with law. If the petitioners were to be tried for any of the offences in India, it can only be in respect of the incident that has happened in India on 21/22.03.2020 for the altercation between the complainant and accused No.1 and his parents, i.e., accused Nos.2 and 3, which happens to be on the issue of extra marital affair of accused No.1. The allegations of demand for additional dowry are bald and appear to have been made only to attract the provisions of Section 498A IPC.

14. In view of these facts and circumstances, this Court is of the opinion that previous sanction of the Central Government under Section

188 of Cr.P.C. is required for proceeding with against the petitioners herein for the offences alleged in the complaint, on the basis of which the offences under Sections 498A, 417, 406 and 506 IPC and Sections 3, 4 and 6 of Dowry Prohibition Act have been registered. As this Court is not satisfied that the offences under Sections 498A, 417, 406 and 506 IPC and Sections 3, 4 and 6 of Dowry Prohibition Act are made out against petitioners herein/accused Nos.1 to 3 in the C.C., as having been committed in India, this Court is of the opinion that none of the offences can be tried in India.

15. Both the Criminal Petitions are accordingly allowed and the proceedings in C.C.No.1873 of 2022 on the file of the III Additional Junior Civil Judge-cum-III Additional Metropolitan Magistrate, Ranga Reddy are quashed.

16. Pending miscellaneous petitions, if any, in these Criminal Petitions shall stand closed.

JUSTICE T. MADHAVI DEVI

Date: 07.03.2024

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