

HIGH COURT FOR THE STATE OF TELANGANA

CRIMINAL PETITION No.8496 of 2017

Between

Chitharu Pullaiah & others

Petitioners

AND

\$ The State of Telangana,
Rep., by its Public Prosecutor and another.

Respondents

DATE OF ORDER PRONOUNCED: 17-06-2022

HON'BLE DR. JUSTICE D. NAGARJUN

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| 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 Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

***THE HON'BLE DR. JUSTICE D. NAGARJUN**

+CRIMINAL PETITION No.8496 OF 2017

% Dated 17-06-2022

Chitharu Pullaiah & others

Petitioners

VERSUS

\$ The State of Telangana,
Rep., by Public Prosecutor and another.

Respondents

! Counsel for Petitioners : Sri Ch. Venkat Raman.

^Counsel for respondent No.1 : Asst. Public Prosecutor
Counsel for respondent No.2 : Sri A. Suryanarayana

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? Cases referred

THE HON'BLE DR. JUSTICE D.NAGARJUN**CRIMINAL PETITION No.8496 of 2017****ORDER:**

This petition is filed by the petitioners/A2 to A4 to quash the charge sheet filed in C.C.No.759 of 2016 on the file of XX Metropolitan Magistrate, Cyberabad at Malkajgiri, registered against them for the offence under Sections 498-A and 323 IPC.

The facts as can be gathered from the complaint dated 09.08.2016 filed by the de-facto complainant/respondent No.2 to the Station House Officer, Kushaiguda, in brief are that the marriage of the de-facto complainant with A1 was performed on 15.05.2004 and at the time of marriage, her parents gave dowry of 20 tulas of gold, 20 tulas of silver and other articles. Subsequent to the marriage, A1 started harassing her and forced her to get a sum of Rs.4 lakhs as additional dowry. In the year 2006, she followed her husband/A1 to U.S.A. and during wedlock they were blessed with a boy and girl. A1 used to come to home late night and beat her mercilessly and used to become violent. When she called 911 cops on 24.05.2016 in U.S.A., A1 threatened her not to disclose anything to the cops. He has taken her phone, car etc and used to suspect her. In

the year 2015, her parents-in-law, who are petitioner Nos.1 and 2/A2 and A3, used to pick up quarrel with her for petty issues and all of them returned to India and when she came to know that her husband was leaving alone to U.S. on 28.08.2016, the complaint is filed on 19.08.2016. Basing on the complaint the police have registered a case in Crime No.504 of 2016 for the offence under Section 498A and 323 IPC.

During the course of investigation, the police have examined the complainant, her father, brother and other witnesses and on completion of investigation, charge sheet is filed alleging that the petitioners and A1 have committed the offence punishable under Sections 498-A and 323 IPC. Challenging the same, the present petition is filed.

Originally, the mother of A1 and one Sridevi were not charge sheeted. However, the trial Court at the time of taking cognizance of the offence has considered the material and took cognizance not only against A1 and A2, but also against A3 and A4 as well.

The grounds on which this petition is filed are that even according to the charge sheet, the offence is not made out against petitioner Nos.3 and 4, as the allegation against them

are that when they went to USA in the month of March, 2015 for a period of three months, they harassed and beat the de-facto complainant and picked up quarrel for petty issues and that petitioner No.2/A3 used to abuse her in filthy language, whereas petitioner No.2/A4 used to telephonically instigate A1 to beat the de-facto complainant.

It is submitted that even if the contents of the complaint are taken into consideration, no offence is made out under Section 498-A and 323 IPC. It is submitted that all the alleged overt acts have not took place in India, but took place in USA and thereby, the case against the petitioners will not sustain.

Heard both sides and perused the record.

Now the point for determination is whether the proceedings in C.C.No.759 of 2016 on the file of XX Metropolitan Magistrate, Cyberabad, against the petitioners can be quashed?

There is no dispute that the marriage of the de-facto complainant was performed with A1 on 15.05.2004 at Hyderabad. In the year 2006, she went to USA along with her husband/A1 and during wedlock, they were blessed with two

children. According to the complainant though she has stated that A1 has harassed even prior to leaving for USA, she has not mentioned any such allegation against the petitioner.

As submitted rightly by the learned counsel for the petitioners that the allegations levelled against the petitioners are that they harassed her with they came to USA for a period of 3 months in the year 2015, and they have also instigated A1 to beat the de-facto complainant. According to her, petitioner No.2 used to pick up quarrel for petty issues and used to beat her. Both petitioner Nos.1 and 2 used to abuse her in filthy language and used to force her husband to give divorce. Admittedly, she has not made any complaint against the petitioners in USA to the US police. Even if the allegation that the petitioners have harassed her in USA in March 2015 is concerned, the question is, whether the Indian police have jurisdiction to register the case and whether the trial Court can proceed with the trial of the case.

Section 188 Cr.P.C. reads 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 a 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.”

Section 188 Cr.P.C. requires prior sanction of the Central Government before proceeding with the trial. In the case on hand, the trial Court has taken cognizance of the offence and the trial is not yet proceeded.

Learned counsel for respondent No.2 has submitted that Section 188 Cr.P.C., does not bar from taking cognizance of the offence against the petitioners in respect of the offence committed abroad. However, it mandates taking such sanction prior to commencement of trial and that option is still available for the police to take sanction of the Central Government and thereby this petition for quashment of charge sheet on that ground cannot be entertained.

In support of his contention, he has relied on an authority of the High Court of Andhra Pradesh in the case of **Vijaya Saradhi Vajja vs. Devi Sriroopa Madapati**¹. The relevant portion reads as under:

¹ 2006 Law Suit (AP) 901

“Since no other grounds have been urged for staying the investigation, there is no bar for the police to investigate into the crime registered for the alleged offence and filing of charge sheet. On filing the charge sheet only when the Magistrate proceeds to make an inquiry into the matter, having regard to the nature of allegations, petitioner can insist for sanction of Central Government for collection of evidence during the course of trial into the charges so framed.”

Learned counsel has also relied on the judgment of this Court in the case of **Chaitharu Shashidhar vs. The State of Telangana**². The relevant portion reads as under:

“One of the main contentions are that most of the allegations are in abroad and the prosecution is not sustainable, leave about sanction to prosecute under Section 188 Cr.P.C. even mandatory thereby the cognizance order of the learned Magistrate is un-sustainable. In fact, a perusal of the ingredients of Section 188 Cr.P.C. indicates that there is no bar of cognizance, but for post cognizance, enquiry/trial. Once such is the case, it is premature to go into the requirement of sanction of post cognizance enquiry/trial as in the meantime if at all for any enquiry as to the framing of charges to be undertaken by the trial Court that requirement of sanction under Section 188 Cr.P.C. arises. With these observations by left open of such defence and to raise such objection, the criminal petition is disposed of without going into the other merits that can be urged in the course of hearing before charges subject to such sanction/leave of the central Government contemplated by Section 188 Cr.P.C.”

In view of the above and taking into consideration the facts and circumstances of the case, the criminal petition is disposed of. However, it is open for the petitioners to raise the objection that the charges cannot be framed against the petitioners without consent of the Central Government as contemplated under Section 188 Cr.P.C., at the time of hearing

² CrI.P.No.13651 of 2018, dt.23.01.2019

of charges. Considering the age of the petitioners, the presence of the petitioners during the trial is dispensed with, however, the trial Court is at liberty to direct the petitioners/accused to appear as and when their presence is required.

Miscellaneous applications, if any, shall stand closed.

DR. D.NAGARJUN, J

Date: 17.06.2022
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L.R. copy to be marked.