

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

Criminal Petition No.11126 OF 2022

Between:

Smt.Mamta Basu and another ... Petitioners

And

The State of Telangana,
Rep. by its Public Prosecutor,
High Court for the State of Telangana
and another. ... Respondents

DATE OF JUDGMENT PRONOUNCED: 14.02.2023
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 the fair copy of the Judgment? Yes/No

K.SURENDER, J

* THE HON'BLE SRI JUSTICE K. SURENDER

+ CrI.P.No.11126 of 2022

% Dated 14.02.2023

Smt.Mamta Basu and another ... Petitioners

And

\$ The State of Telangana,
Rep. by its Public Prosecutor,
High Court for the State of Telangana
and another ... Respondents

! Counsel for the Petitioner: Sri Raj Kumar Grandhi

^ Counsel for the Respondents:

- 1) Sri S.Sudershan
Additional Public Prosecutor
for R1
- 2) Sri Ali Faraz Farooqui for R2

>HEAD NOTE:

? Cases referred

¹ (2022) 6 SCC 599

² (2010) 7 SCC 667

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.11126 of 2022

ORDER:

1. This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioners/A2 & A3 to quash the proceedings against them in C.C.No.1004/2020 on the file of Special Judicial Magistrate of First Class, Prohibition & Excise Offences Court, Sangareddy in Cr.No.304/2020 of Ramachandrapuram Police Station. The offences alleged against them are under Sections 498(A) of Indian Penal Code and Sections 3 & 4 of the Dowry Prohibition Act.

2. Heard. Perused the record.

3. The 2nd respondent who is the wife of Accused No.1 filed a complaint stating that she was married to Accused No.1 on 01.02.2018 at Kolkata and at the time of marriage her parents gave gold jewellery, silver towards dowry. However, the husband and parents-in-law started harassing her for additional dowry. Accused No.1 did not lead a normal 'husband and wife' relation

and threatened to divorce her. Accused No.1 beat her whenever she questioned his odd behavior. Aggrieved by the said conduct, the 2nd respondent filed present complaint.

4. The police having registered the crime, investigated and filed charge sheet against these petitioners and Accused No.1 for the offences under Section 498-A of the Indian Penal Code and Sections 3 & 4 of the Dowry Prohibition Act.

5. Learned Counsel appearing for the petitioners would submit that all the allegations are leveled against Accused No.1. Except stating that these petitioners were abetting and instigating Accused No.1 to ask for additional dowry and in turn Accused No.1 allegedly beating her, there are no other allegations against these petitioners. When the allegations in the complaint are vague and omnibus in nature, the proceedings against these petitioners have to be quashed. He also relied on the Judgment of Honourable Supreme Court in **Kahkashan Kausar @ Sonam and others v. State of Bihar**¹, wherein at para-21 it is specifically held as follows;

“21. Therefore, upon consideration of the relevant circumstances and in the absence of any specific role

¹ (2022) 6 SCC 599

attributed to the appellant-accused, 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.”

6. On the other hand learned counsel for the respondent would submit that the complaint makes out specific allegations against these petitioners and further in the reply notice addressed to the Station House Officer, P.S. Ramachandrapuram, Cyberabad, for the notice issued under Section 91 of Cr.P.C., several details were narrated. In the said reply notice, there are several details of harassment specifically mentioned against these petitioners on several occasions. In view of the said reply notice and allegations made therein, it cannot be said that the allegations are vague as argued by the counsel for petitioners. He further submits that during the course of trial, the 2nd respondent would narrate all instances in details for which reason, the prosecution cannot be quashed.

7. Having gone through the charge sheet, complaint and statements recorded under Section 161 of Cr.P.C. of the 2nd respondent, it is alleged that these petitioners were instigating Accused No.1 and in turn Accused No.1 used to beat the 2nd respondent. It is the case of the 2nd respondent that her husband's behavior was inappropriate towards her and he was a drunkard and several times her husband became aggressive and hit her and behaved in rude manner.

8. In matrimonial cases, the events that transpire are narrated to the Police by lodging a complaint or during recording of statements under Section 161 of Cr.P.C. It can be inferred that the statement being at the earliest point of time, such narration of events would be looked into by the Court to infer harassment.

9. In the present case, both in the complaint and the statements recorded under Section 161 of Cr.P.C., except stating that these petitioners instigated Accused No.1, no specific instances are narrated. As argued by the learned counsel that the 2nd respondent would narrate in detail during the course of trial for which reason, the trial has to be proceeded with, cannot be accepted.

10. This Court under inherent powers under Section 482 of the Cr.P.C. can come to a conclusion whether the criminal proceedings have to be continued or not on the basis of documents and statements filed under Section 173 of the Cr.P.C. The eventuality as stated by the learned counsel that the 2nd respondent would narrate several instances what are not stated in the statements recorded under section 161 of Cr.P.C. and the complaint, cannot be made basis to dismiss the petition when apparently no specific allegations are made against these petitioners. This Court would confine itself to the material placed on record and cannot on an assumption that at a future date the 2nd respondent would narrate several instances during the course of trial, refuse the prayer for quashing the proceedings.

11. For the aforesaid reasons, when there are no specific allegations except a vague allegation made with regard to instigation, following the dictum of the Honourable Supreme Court in ***Kahkashan Kausar case (supra 1) and Preeti Gupta v. State of Jharkhand***², this Court has no

² (2010) 7 SCC 667

hesitation to quash the proceedings against the petitioners/A2 & A3.

12. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioners/A2 & A3 in C.C.No.1004/2020 on the file of Special Judicial Magistrate of First Class, Prohibition & Excise Offences Court, Sangareddy, are hereby quashed.

Miscellaneous applications pending, if any, shall stand closed.

K.SURENDER, J

Date: 14.02.2023
Note: Issue L.R. copy
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THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.11126 of 2022

Dt. 14.02.2023

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