

**T.Namahsi Vs. State of A.P., Rep. by Public Prosecutor**

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**Court :** Andhra Pradesh

**Decided On :** Jul-30-2014

**Judge :** The Hon'Ble Sri Justice K.C.Bhanu and the Hon'Ble Smt. Justice

**Appellant :** T.Namahsi

**Respondent :** State of A.P., Rep. by Public Prosecutor

**Judgement :**

HONBLE Dr. JUSTICE K.G.SHANKAR Criminal Petition No.337 of 2014 30-7-2014 T.Namahsi vs. State of A.P., Rep. by Public Prosecutor, High Court of A.P., Hyderabad; and another Respondents Counsel for the Petitioner: Sri T.Niranjan Reddy, Senior Counsel Counsel for Respondent No.1: Public Prosecutor Counsel for Respondent No.2: Sri Ch.Sashibhushan : ?. Cases referred:

1. (2010) 7 SCC 6672. 2013 (2) ALD (CrL.) 293 (AP) 3. 2013 (1) ALD (CrL.) 652 (AP) HONBLE Dr. JUSTICE K.G.SHANKAR Criminal Petition No.337 of 2014 Date:

30. 7-2014 Order: Accused No.3 in C.C.No.349 of 2012 on the file of the XV Additional Chief Metropolitan Magistrate, Nampally, Hyderabad seeks for his discharge. The complaint of the 2nd respondent culminated in a charge-sheet under Section 498-A, IPC and under Sections 4 and 6 of the Dowry Prohibition Act, 1961 (the D.P. Act, for short).

2. Accused No.1 in the case is the husband of the 2nd respondent. Accused No.2 is the mother of accused No.1. The petitioner, who is accused No.3, is the father of accused No.1. Pending the case, accused No.2 died.

3. On 12-3-2000, the marriage between accused No.1 and the 2nd respondent was solemnized. On 15-8-2004, the 2nd respondent gave birth to a child. Accused No.1, however, filed O.P.No.220 of 2012 on 09-4-2012 before the Family Court, Secunderabad seeking for divorce. On 15-4-2012, the 2nd respondent received summons in O.P.No.220 of 2012. On the very next day, i.e. on 16-4-2012, the 2nd respondent lodged the complaint which was registered as First Information Report (FIR) in this case.

4. It is contended by Sri T.Niranjan Reddy, learned Senior Counsel for the petitioner, that bald allegation of demand for additional dowry was made against accused 2 and 3 and that no specific event of demand was alleged. In the complaint, the 2nd respondent claimed that accused 2 and 3 put the 2nd respondent to extreme pressure for additional dowry. The word used by her is that accused 2 and 3 were eating the 2nd respondent. The learned Senior Counsel for the petitioner, however, submitted that the contention of the 2nd respondent was primarily aimed at her husband/accused No.1 and not against accused 2 and 3.

5. It would appear that accused 2 and 3 earlier moved this Court for quashment of C.C.No.349 of 2012 through Criminal Petition No.2882 of 2013. This Court dismissed the petition holding that the proceedings in C.C.No.349 of 2012 could not be interdicted so far as accused No.2 is concerned. It is the contention of the learned Senior Counsel for the petitioner that albeit Crl.P.No.2882 of 2013 was filed by accused 2 and 3, this Court considered the case of accused No.2 only and not the present petitioner. Be it noted that Crl.P.No.2882 of 2013 was filed by accused 2 and 3 and that through orders dated 30-4-2013, the same was dismissed.

6. The learned Senior Counsel for the petitioner placed reliance upon PREETI GUPTA v. STATE OF JHARKHAND . In this case, the Supreme Court administered a caution to the Bar in respect of cases under Section 498-A, IPC. Inter alia, the Court noticed that relatives of the husband should not be accused of

the offence under Section 498-A, IPC without factual foundation.

7. In *Tummala Ramnarayana v. State of Andhra Pradesh*, the accused were the husband of the complainant and the parents and close relatives of the husband. They were residents of Visakhapatnam. All of them allegedly went to Rajahmundry and assaulted the wife at the house of her parents. A learned Single Judge of this Court observed that the allegations patently are unnatural and improbable and that the continuation of the case against him would cause substantial injustice and undue hardship to the accused.

8. In *Y. Sham Kumar v. State of Andhra Pradesh*, the close and distant relatives of the husband were implicated as accused for the offences under Sections 498-A and 420 IPC and under Sections 3 and 4 of the Dowry Prohibition Act, 1961. The complainant/wife alleged that the marriage of the complainant was solemnized with the 1st accused on misrepresentation by the parents and relatives of the 1st accused that the 1st accused was an Engineering Graduate and was working as an Engineer. The complainant further claimed that the husband as well as his parents and relatives insisted for payment of additional dowry and that they instigated the husband to harass the complainant. A learned Single Judge of this Court held that the contention is patently unconvincing and that the allegations designedly are aimed to implicate all the accused. This Court quashed the proceedings against the parents and relatives of the husband in such background.

9. The learned Senior Counsel for the petitioner submits that the petitioner stands on the same footing as in these cases, being the father of accused No.1/ husband of the 2nd respondent and that no case is made out against him. He also reiterated that it was more a case of counterblast to divorce petition filed by the husband in O.P.No.220 of 2012.

10. The learned counsel for the 2nd respondent, however, contended that the complaint was lodged on 15-4-2012 itself before the 2nd respondent received summons in O.P.No.220 of 2012. He also contended that there are clear allegations against accused No.3 as the 2nd respondent claimed that they beat her and tried to kill her. I am afraid that the FIR made allegations against the petitioner in unequivocal terms. Whether the contents of the complaint are true or

otherwise can be established during trial only. So far as the present petition is concerned, where there are allegations against accused No.3/petitioner, and also where it appears that the allegations were made prior to receipt of summons by the 2nd respondent, the allegations deserve to be gone into at the time of trial. I find no justification for the petitioner/accused No.3 to seek quashment of C.C.No.349 of 2012. I therefore see no merits in this petition.

11. This criminal petition, consequently, is dismissed. The miscellaneous petitions, if any, pending in this petition shall stand closed. \_\_\_\_\_ Dr. K.G.SHANKAR, J.

30th July, 2014.

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