

Shaik Kaleemullah and 9 Others. Vs. the State Ap, Rep. by Its P.P.

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Court : Andhra Pradesh

Decided On : Oct-01-2010

Judge : Samudrala Govindarajulu, J.

Acts : Indian Penal Code (IPC) - Section 498 (A); Dowry Prohibition Act - Section 3,4

Appeal No. : Criminal Petition No.4277 of 2009

Appellant : Shaik Kaleemullah and 9 Others.

Respondent : The State Ap, Rep. by Its P.P.

Advocate for Def. : D. Bhaskar Reddy, Adv.

Advocate for Pet/Ap. : Sri Nazir Ahmed Khan, Adv.

Judgement :

ORDER:

1.The petitioners 1 to 10/A-2, A-3 and A-5 to A-12 are accused of offences punishable under Section 498 (A) IPC and Sections 3 and 4 of the Dowry Prohibition Act.

2.A-2 is brother, A-3, A-5 to A-9 are sisters of A-1 who is husband of the second respondent/de facto complainant. A-10 to A-12 are brother-in-law of A-1, they being husbands of sisters of A-1. There is no dispute about marriage between the

second respondent and A-1. A-1 is not figuring as one of the petitioners herein. A-4 who is another brother of A-1 is stated to be no more even by the time of giving report by the second respondent to the police, which report was registered as FIR No.108 of 2009 of Nizamabad IV Town Police Station. All the sisters of A-1 are married and are living with their respective husbands, except A-8.

3. It is alleged that parents of the second respondent gave dowry of Rs.70,000/- in cash, 11 tolas of gold, 20 tolas of silver, Hero Honda motorcycle and other household utensils at the time of marriage. The alleged dowry and articles might have been given to A-1 and not to any of A-1's brothers, sisters or brothers-in-law who are the petitioners herein. It is further alleged that A-1 was always beating the second respondent and abusing her and subjecting her to mental as well as physical harassment demanding her to get further dowry of Rs.1.00 lakh and that all the other accused were instigating A-1 to demand further dowry of Rs.1.00 lakh and to harass the second respondent and that finally all the accused necked the second respondent out of her family house demanding to bring Rs.1.00 lakh. Thus, main allegation of demanding additional dowry of Rs.1.00 lakh and putting the second respondent to physical and mental harassment is on A-1. It is only A-2 to A-12 are stated to have instigated A-1 to do the same. There are no specific allegations of any of the petitioners herein subjecting the second respondent to harassment by way of beating or abusing her, much less demanding to bring Rs.1.00 lakh towards additional dowry. If the alleged additional dowry is brought, then none of brothers, sisters and brothers-in-law would be beneficiaries and they would not get any share in that additional dowry.

4. The Supreme Court in *Preeti Gupta v. State of Jharkhand*¹ took note of the fact on some unscrupulous wives putting all family members of the husband to harassment by way of giving report alleging offence under Section 498 (A) IPC.

The Supreme Court pointed out role of the courts as follows:

"At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close

relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion."

5. The Supreme Court also pointed out role of advocates and also need for change of legislation on this aspect. If allegations in the report given by the second respondent are scrutinized with pragmatic approach contemplated by the Supreme Court, it is evident that general and omnibus allegations are made against all the petitioners who are residents of different places and different localities including a brother who is no more even by the date of giving report by the second respondent to the police. Such indiscriminate activity on the part of the second respondent, cannot be supported by this Court. Registration of case on report of the second respondent by the police against the petitioners herein is nothing short of abuse of process of criminal law.

6. Hence, the criminal petition is allowed quashing FIR in crime No.108 of 2009 of Nizamabad IV Police Station in so far as the petitioners 1 to 10/A-2, A- 3 and A-5 to A-12 are concerned.

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