

IN THE COURT OF HON'BLE III ADDL JUDICIAL MAGISTRATE OF FIRST CLASS:: <<CITY>>

**CrI.M.P. No. of 2018
in**

C.C. No. AAA/2018

(arising from FIR No. BBB/2017 on the file of WPS, <<CITY>>)

Between:-

1. Mr. HUSBAND, Aged 37 years **(A1)**
S/o HUSBAND's FATHER,
Occ: IT/Software professional, R/o. Bengaluru
2. Mr. HUSBAND's FATHER, Aged 66 years **(A2)**
S/o HUSBAND's GRAND FATHER, Retd Tahsildar
Occ: Retd Deputy Tahsildar, R/o. HOMETOWN
3. Mrs. HUSBAND's MOTHER, Aged 57 years **(A3)**
W/o HUSBAND's FATHER,
Occ: Urdu Pandit, R/o. << HOMETOWN >> ... **Petitioners/ Accused Nos.1 to 3**

And

1. The State of A.P, Rep. by Investigating Officer, Women PS, <<CITY>> **(R1)**
2. Ms. CUNNING KNIFE,
D/o CUNNING KNIFE' FATHER, Aged 38 years,
Occ: Famous Dubbing & Supporting Artist (in Telugu T.V. Serials, Online Ads/
Commercials & Movies), R/o. Krishna Nagar, Hyderabad, Telangana State

... **Original Complainant/ Respondents No.2 (R2)**

**PETITION PREFERRED U/S 239 OF Cr.P.C. ON BEHALF OF
PETITIONER NOS. 1, 2 and 3**

TO DISCHARGE THEM IN CAUSE TITLE CASE C.C. No. AAA/2018

The permanent address for service of all notices and court summons process on the Petitioners named above is: D.No. 11-999, Swamyji Nagar, HOMETOWN, A.P. 123456

Most Respectfully Showeth,

The Petitioners, humbly submit, via this discharge petition, that they are the original Accused Nos. 1, 2 and 3 in C.C. No. AAA/2018 on the file of this Hon'ble Court arising from FIR. No. CC/2017 on the file of Women PS, <<CITY>>. Respondent No.2 impleaded in this petition is the Respondent No.2 in the said FIR. No. CC/2017. The Petitioner further pray that the contents of the prosecution documents of the instant case, are to be read into this petition, in the interest of justice.

On the outset, it is submitted that the charge sheet filed by the Respondent No.1 and the criminal proceedings in C.C. No. AAA/2018 pending on the file of this Hon'ble

Court are clear abuse of the process of law, and are not in compliance with the law established under Criminal Procedure Code as averred and elaborate in detail, under the following grounds and thereby, all the petitioners are liable to be discharged from the case (supra).

GROUND #1 – LACK OF TERRITORIAL JURISDICTION TO HON'BLE COURT

- 1) It is submitted that, a bare reading of the complaint would go to show that no part of the cause of action or no incident arose within this Hon'ble Court territorial jurisdiction, where the criminal complaint was filed. Moreover, as per the FIR. No. CC/2017 and charge sheet submitted by Respondent No.1 based on this FIR, the undisputed fact is that all of the allegations have taken place at Hyderabad City, Telangana State, and if we go back in time a little more, to those that may have happened in Pune City, Maharashtra State if any at all, both of which form the matrimonial home(s) of the Respondent No.2 in FIR. No. CC/2017.

The relevant section from the complaint is reproduced below for your kind reference, where it can be seen like in broad daylight, there is not a shred of evidence adduced in regards i) *to the phone calls allegedly made to Petitioner No.1*, ii) *the elders who tried to mediate and convince* iii) *the blatant defamatory lie of Petitioner No.1 getting remarried and leaving the country*. It is silent on how all these bring about jurisdiction to the case at <<CITY>>.

“ఈ విషయం మా తల్లిదండ్రులకు చెప్పగా వారు హైదరాబాదు వచ్చి నన్ను ఒంగోలులోని తమ ఇంటికి తీసుకు వచ్చినారు. తరువాత నా తల్లిదండ్రులు కూడా అతనిని కలిసి మాట్లాడటానికి ప్రయత్నించగా అతను అందుకు అంగీకరించలేదు. వారికి ఫోన్‌లోనే మీరు నా అక్కాంట్ లో డబ్బులు వేస్తేనే నేను మీతో మాట్లాడేది అని చెప్పి మా తల్లిదండ్రులను నానా దుర్భాషలాడినాడు. మా తల్లిదండ్రులు పెద్దమనుషుల ద్వారా నా అత్త మామలకు మరియు నా భర్తకు నచ్చచెప్పటానికి చాలా ప్రయత్నాలు చేసినారు. కానీ వారు కనికరించలేదు. గత 15 రోజుల నుండి ఎవరు ఫోన్ చేసినా అతను ఫోన్ తీయకుండా ఎవరికి అందుబాటులోకి రావడం లేదు. మాకు అతను మరలా పెళ్లి చేసుకొని వేరే దేశం వెళ్ళే ప్రయత్నాలు చేస్తున్నట్లు తెలియవచ్చింది.”

Similarly, it is submitted that, the relevant section from the FIR (point no. 12) is reproduced below for the kind perusal of Hon'ble Court. Per this FIR, the Petitioner No.1 started demanding additional dowry and when Respondent

No.2 refused to get additional dowry, he even stopped to give amount for her livelihood, discarded her, with intent to get second marriage. Again, none of the above hurtful and defamatory allegations are supported by any evidence worth its salt by the prosecution. After the Petitioner No.1 left for Bengaluru, it is difficult to understand, where is the applicability of jurisdiction of Women PS/Investigation Officer to investigate the case at <<CITY>>, Prakasam district and file the charge sheet therein in the Hon'ble Court.

"12. Contents of the complaint / statement of the complainant or informant :

This is a case of subjected to cruelty and a married woman at occurred prior to 7.4.17 at <<CITY>> and Hyderabad and reported in the PS on 7.4.16 at 17:00 hrs. In which the complainant CUNNING KNIFE W/O HUSBAND, 35 yrs, Kamma, Samathanagar, <<CITY>> was harassed mentally suspecting her character, left her alone at Hyderabad, went to Banglore. After few days he started demanding of additional dowry, when complainant refused to get additional dowry, he even stopped to give amount for her livelihood, discarded her, with intent to get second marriage. Hence FIR"

Finally, it is submitted that, the relevant section from Charge sheet is reproduced below for your kind reference to be viewed in totality along with Criminal Complaint and FIR.

"L.W.1 informed the same to L.Ws.2 and 3 who came to Hyderabad and brought L.W.1 to <<CITY>> Later when L.Ws.2 and 3 tried to talk with A1 for which he did not agree. A1 informed through phone that if we deposited the required amount he will talk through phone and by saying so abused L.Ws.2 and 3 indecently and vulgarly. Since 15 days when L.Ws.1 to 3 are making phones nobody lift the phones and L.W.1 came to know that is making preparations to go to another abroad by marrying another rich lady. Thus, A1 who married L.W.1 developed dislike now and trying to marry another girl and leaving to another country.

The complainant turned up to Women Police Station <<CITY>> and presented a report about the occurrence. L.W.8 registered it as a case in Cr.No.CC/2017 under sections 498A and 3 and 4 of D.P.Act on 7.4.2017 at 1700 hours of <<CITY>> Women Police Station and issued F.I.Rs to all concerned and investigated into"

By self-admission of the Respondent No.2, the undisputed fact is that the Petitioner No.1 had been residing in Bengaluru from June 2013 onwards,

including the duration referenced in above sections till date, thereby resulting in a resounding conclusion that, there was no cause of action that ever happened in the territorial jurisdiction of <<CITY>>, Prakasam district and neither of Petitioners No.2 and 3 ever traveled to <<CITY>>.

- 2) Respondent No.1 furnished false information, for reasons best known only to the Respondent No.1, as part of charge sheet U/s 498A IPC, in Para-1, by emphatically declaring that the scene of offence happened at Samathanagar, <<CITY>> whereas all the details in all the subsequent Para(s) of the charge sheet vividly reveal, without casting any iota doubt, that Respondent No.2's matrimonial home is Hyderabad City, Telangana. No part of the alleged offences had taken place at Respondent No.1's territorial jurisdiction. All this while, another undisputed fact is that, the Petitioner No.1 was gainfully employed at Bangalore, Karnataka from June 2013 onwards and has left everything belonging to him at the Hyderabad apartment and Petitioners No.2 & 3 are based permanently in Anantapur. All this is as per the charge sheet filed by Respondent No.1 himself and also admitted by the Respondent No.2.
- 3) As such, Hon'ble Supreme Court has held in **Amarendu Jyoti case**(mentioned in below list Para-4), that the offence of cruelty in a case of 498A IPC cannot be said to be a continuing as contemplated by Sections 178 and 179 of the Cr.P.C and as such it cannot be understood that the mental cruelty that was alleged to have been inflicted upon the Respondent No.2 "continued unabated" on account of no effort having been made by the Petitioners to take her back to her matrimonial home, and the threats given by the Petitioners over the telephone and thereby holds jurisdiction at <<CITY>>. It might be noted here, incidentally that there is no reference to any particular piece of evidence regarding the threats said to have been given by the Petitioners over the telephone.
- 4) Petitioners put their reliance on below reported judgments in support of this ground for discharge.
 - a. Judgement of the Hon'ble Supreme Court of India available in **Y. Abraham Ajith & Ors vs Inspector of Police, Chennai & Anr** decided on 17 August, 2004 reported in Criminal Appeal 904 of 2004, reported as [(2004) 8 SCC 100] or [AIR 2004 SCW 4788] or [2004 Cri LJ 4180].
 - b. Judgment of Hon'ble Supreme Court of India available in **Manish Ratan And Others Vs State Of M.P and Another** decided on 01 Nov 2006 reported in Criminal Appeal 210 of 2000, reported as [(2007)1 SCC 262].

- c. Judgement of Hon'ble Supreme Court in **Bhura Ram And Ors Vs State of Rajasthan & Anr** decided on 2 April, 2008 reported in Criminal Appeals No. 378 Of 2000 With No. 782 Of 2002, reported as [(2008) 11 SCC 103].
- d. Judgement of Hon'ble Supreme Court in **Amarendu Jyoti and others Vs. State of Chhattisgarh and others**, reported on 04 August 2014, reported in [(2014) 12 SCC 362].
- e. Judgement of Hon'ble High Court of Andhra Pradesh by Dr. Justice K.G. Sankar in **Sivangala Thandi Deepak & Others Vs The State of A.P.** decided on 11 July 2014 reported in Criminal Petition No.6875 of 2013.

GROUND #2 – UNEXPLAINED DELAY IN FILING CRIMINAL COMPLAINT

- 1) It is submitted that a mere plain reading of the complaint discloses that it does not have an iota of information as to details of the occurrence of the offence to attract any of the provisions of IPC 498A. In addition to that, all the independent witnesses, from L.W.4 to L.W.7 testified that they have not seen Petitioner No.1 from 2014 onwards in Hyderabad. This disclosure by prosecution witnesses themselves, aptly makes it clear that the alleged offences by Petitioner No.1, were far from truth and unbelievable and even if taken to be truth, from the date of Petitioner No.1 leaving Hyderabad for Bengaluru for livelihood to the date of instituting this false case, marks a delay of over a period of 3 years and 10 months, which is totally unexplained by the Respondent No.2 on record, which should cast considerable doubt regarding the genuineness of the complaint and the veracity of the evidence of the Respondent No.2.

This also contradicts the assertion made by Respondent No.1 in the FIR at point #8, that there is no delay in filing/reporting the complaint, raising serious doubts on the quality of the investigation performed right from the date of registration of FIR.

"8. Reasons for delay in reporting by the complainant / informant :

No delay "

Only date mentioned in the FIR is the date of instituting of FIR, with a discrepancy again (**7.4.16** is wrongly mentioned, instead of **7.4.17**) and no date of offence is mentioned at all.

"12. Contents of the complaint / statement of the complainant or informant :

*This is a case of subjected to cruelty and a married woman at occurred prior to **7.4.17** at <<CITY>> and Hyderabad and reported in the PS on **7.4.16** at 17:00 hrs. In which the complainant CUNNING KNIFE W/O HUSBAND, 35 yrs, Kamma, Samathanagar, <<CITY>> was harassed mentally suspecting her character, left her alone at Hyderabad, went to Banglore. After few days he started demanding of additional dowry, when complainant refused to get additional dowry, he even stopped to give amount for her livelihood, discarded her, with intent to get second marriage. Hence FIR"*

- 2) Petitioners put their reliance on below reported judgments in support of this ground
- a. Judgement of the Hon'ble Supreme Court of India in ***State Of A.P vs M. Madhusudhan Rao*** decided on 24 October, 2008 reported in Criminal Appeal No. 1697 of 2008, reported as [(2008) 15 SCC 582] or [(2009) 3 SCC (Cri) 1123]; S.L.P. (Criminal) No. 3426 of 2007).
 - b. Judgement of the Hon'ble Supreme Court of India in ***Neelu Chopra & Anr Vs Bharti*** decided on 7 October, 2009 reported in Criminal Appeal No. 949 of 2003, reported as [2009 (10) SCC 184] or [AIR 2009 SC (Supp) 2950].

GROUND #3 - NO EVIDENCE ADDUCED TO SUPPORT CHARGESHEET ALLEGATIONS

- 5) It is submitted that, no evidence, whatsoever, is adduced in support of and to attract the key ingredients of the section 498A IPC. All the allegations are bereft of details and thereby vague in nature.
- 6) It is submitted that, none of the witness's statements under Cr.P.C 161 supports Respondent No.1 allegations in FIR and it is further submitted that police continued investigation in Hyderabad and filed the charge sheet in <<CITY>>. Even charge sheet allegations were not supported by the witnesses of the case. Two of the witnesses are none other than the blood relatives of the Respondent No.2, who are thereby to be discounted as interested witnesses in the instant case. Even going by the allegations read from their 162 Cr.P.C statements, it is evident that they are not eye witness to any of the allegations alleged by them. Rests of the witnesses are independent witnesses, whose statements does not disclose any offences as alleged in Charge sheet by Respondent No.2.

- 7) Moreover, it is submitted that, in **V.P.Dhanesh case** (mentioned in below listPara-15), the hon'ble High Court of Jharkhand held that, Dowry demand allegation after a considerable amount of time after marriage is not maintainable for the simple reason that they do not remain as bride and bridegroom as mentioned in the Dowry Prohibition Act. The instant case is instituted in **April 2017**, whereas the marriage happened in **May 2009**. The judgment (supra) squarely applies to the instant case.
- 8) It is submitted that, the admitted fact is that Petitioner No.1 married the Respondent No.2 and also requested Respondent No.2 to join him at Bangalore, establishes that Petitioner No.1 was interested to lead happy and peaceful matrimonial life with Respondent No.2. While inviting Respondent No.2 for matrimonial home either in Pune or Hyderabad, no demands of any nature, were made by Petitioner No. 1. It was not the case of Respondent No.2 that Petitioner No.1 accompanied her to either Pune before/after marriage or to Hyderabad. Moreover, the Respondent No.2 is very well aware that Petitioner No.1 went to Bengaluru to join his job there and has been in regular communication with Respondent No.2 requesting her to get convinced and join him in Bengaluru.

Further it is submitted that all the allegations under Dowry Prohibition Act are false and after due investigation, were correctly dropped from charge sheet allegations against Petitioners No.1, 2 and 3 by Respondent No.2. Under Section 8(B)(2)(c) of the DP Act, 1961 and Rules 4 & 5 of the A.P.DP Act Rules 1998, it is mandatory for the Dowry Prohibition Officer (In this case, a person designated with title of District Social Welfare Officer) to collect evidence for the persons committing the offence under the Act. This statutory requirement was not complied with by the prosecution at the time of filing of final report.

Even if taken to be true, prima facie, all the baseless and unsupported Dowry allegations were time barred as per Rule Nos. 5 and 10 of 'THE ANDHRA PRADESH DOWRY PROHIBITION RULES, 1998 (G.O. Ms. No. 72, Women's Development Child Welfare and Disabled Welfare (PROG), 17th November, 1998).

Both the rules are reproduced below.

5. Complaint: -

(a).

(b).

(c). Any complaint shall be made either on the demand of dowry or accepting dowry within a period of one year.

***10. Time for settlement of disputes:** – Any offence under section 3 and section 4 or any dispute under section 6 of the Act shall be filed before expiry of one year and the same shall be finalized within two years from the date of filing.*

In **Tammineedi Bhaskara Rao case** (mentioned in below listPara-15), the hon'ble High Court of Andhra Pradesh held that "There is considerable force in the submission of Sri K. Jagdish chandra Prasad, learned Counsel for the petitioner that, since Rule 10 of the A.P. Dowry Prohibition Rules prescribes a limitation of one year, the complaint filed eight years after the marriage is barred by limitation. Rule 10 of the A.P. Dowry Prohibition Rules, 1998 provides that any offence under Section 3 and 4 shall be filed before expiry of one year."

As such, applying same principle i.e., Rule 10 of Dowry Prohibition Act, the Petitioners contend that since the allegations of demand of dowry against them are at the time of the marriage which, even according to the complaint, took place in May 2009 and as the complaint was filed eight years thereafter in April 2017, it was clearly barred by limitation imposed by A.P. DP Rules,1998.

- 9) It is submitted that, the allegation made in complaint that Petitioner No.1 demanded the Respondent No.2 to bring money by selling her property given by Respondent No.2's parents, is absolutely false and is denied by Petitioner No.1 which is baseless and unsupported.
- 10) It is submitted that, the allegation made in complaint that Petitioner No.1 restricted to make phone calls is absolutely false and is denied by Petitioner No.1. Even the statements of Respondent No.2's parents say that Respondent No.2 called them on phone, contradicting the version deposed by Respondent No.2. None of the witnesses as per their Cr.P.C 161 statements supported the Respondent No.2 allegations. Even the parents / blood relatives of the Respondent No.2, who were also interested witnesses in the instant case, do not support the Respondent No.2 allegation. Further it is submitted thereby, that this allegation is false, baseless and unsupported.
- 11) It is submitted that, the allegation made in complaint that Respondent No.2's in-laws (parents of Petitioner No.1) used to call Petitioner No.1 and advised on

phone to perpetrate offences on Respondent No.2 is absolutely false and is denied by Petitioner No.1. None of the witnesses as per Cr.P.C 161 statements support the Respondent No.2 allegation. Even the parents/ blood relatives of the Respondent No.2, who were also interested witnesses in the case, do not support the Respondent No.2 allegation. No evidence is adduced for this allegation. Respondent No.1 failed to investigate this allegation to reveal the truth from the husk of false allegations of Respondent No.2. Further it is submitted that this allegation too is false. This sole allegation falsely and routinely impleaded the in-laws of the Respondent No.2 in this false criminal case.

- 12) It is submitted that, the allegation in charge sheet that Petitioner No.1 harassed the Respondent No.2 physically at Hyderabad is absolutely false and is denied by Petitioner No.1. The allegation is vague in nature bereft of any meaningful details and the details of the household items purchased by the Respondent No.2's parents at Hyderabad were also not disclosed and also the household items demanded by the Petitioner is not disclosed. None of the witnesses as per Cr.P.C 161 statements support the Respondent No.2 allegation on physical harassment. No reliable evidence available for this allegation.
- 13) It is submitted that, the allegation in charge sheet that Petitioner No.1 harassed the Respondent No.2 for additional dowry is absolutely false and is denied by Petitioner No.1. None of the witnesses as per Cr.P.C 161 statements support the Respondent No.2 allegation on additional dowry demand. No reliable evidence available for this allegation.
- 14) It is submitted that, the Respondent No.2 and her parents in their statements failed to disclose the fact that the Respondent No.2 is gainfully working full-time as **Dubbing & Supporting Artist** in Hyderabad (in Telugu T.V. Serials, Online Ads/ Commercials & Movies) from the year 2010 onwards, which is clearly deposed by all remaining witnesses as per Cr.P.C 161 statements. Her infrequent travels from Hyderabad to <<CITY>> were mere casual visits to her parent's home, like everybody else. This proves beyond doubt that the Respondent No.2 ordinarily resides at Hyderabad and just for the purpose of filing this false complaint, with the help of her parents, has chosen <<CITY>>. Continuous cruelty/harassment is not reported in <<CITY>> and in summary; this reveals the evil mindset and dishonesty of the petitioner in leveling these false allegations against the Petitioner and with a clear intention to mislead this Hon'ble Court to gain beneficial reliefs.

- 15) Petitioners put their reliance on below landmark reported judgments in support of this ground for discharge.
- a. Judgement of the Hon'ble Supreme Court of India available in **R.P. Kapoor v. State of Punjab** decided on 25 March, 1960 reported in [1960 AIR 862] or [AIR 1960 SC 866].
 - b. Judgement of Hon'ble High Court of Jharkhand in **V.P. Dhanesh Vs State of Jharkhand** decided on 23 September, 2003 reported as [2004 CriLJ 1036].
 - c. Judgement of Hon'ble High Court of Andhra Pradesh in **Tammineedi Bhaskara Rao & Others Vs State of A.P. rep. by Public Prosecutor & Others** reported on 18 November, 2006 reported as [2007 Cri. L.J. 1204].

GROUND #4 - ABUSE OF PROCESS OF LAW BY WAY OF MAKING VAGUE & OMNIBUS ALLEGATIONS ON PARENTS

- 16) It is submitted that, the Allegations regarding physical and mental harassment for Dowry were vague and bereft of any critical details like date, time and place as is mandatory to be considered, that should go into the charge to be laid on the Petitioners/Accused.
- 17) Further it is submitted that the Petitioners No.2 and 3 are elderly citizens, and are permanent residents of Anantapur. The Petitioners do not have friends or relatives in this city of <<CITY>> and do not have any business whatsoever in <<CITY>>. As such they never had shared any household with Respondent No.2. They were maliciously implicated into this vexatious case, with an evil intent to destroy their peace of mind, reputation and dignity in the respectable society they live in, with a single baseless, allegation of instigation, which is held not to attract IPC 498A, in a catena of Judgments of both hon'ble Supreme Court and many hon'ble High Courts of India. This would result in great inconvenience in attending the court hearings who are living in Anantapur and also need to travel around 700 KMs would result in miscarriage of justice to the Petitioners to face such vague and omnibus allegations.
- 18) Petitioners put their reliance on below reported judgments in support of this ground.

- a. Judgement of The Hon'ble Supreme Court, available in **Preeti Gupta & Anr Vs State of Jharkhand & Anr** decided on 13 August, 2010 reported in Criminal Appeal No. 1512 of 2010, reported as [(2010) 7 SCC 667] or [AIR 2010 SC 3363].
- b. Judgement of The Hon'ble Supreme Court, available in **Geeta Mehrotra & Anr Vs State of U.P. & Anr** decided on 17 October, 2012 reported in Criminal Appeal No. 1674 of 2012, reported as [AIR 2013 SC 181] or [2012 (10) SCC 741].
- c. Judgement of The Hon'ble Supreme Court, available in **Varala Bharath Kumar Vs The State of Telangana** decided on 5 September, 2017 reported in Criminal Appeal No. 1565 of 2017, reported as [(2017) 9 SCC 413].
- d. Judgement of The Hon'ble Supreme Court, available in **K. Subba Rao Vs The State of Telangana** decided on 21 August, 2018 reported in Criminal Appeal No.1045 of 2018, reported as [2018 SCC OnLine SC 1080].
- e. Judgement of The Hon'ble High Court of Andhra Pradesh, available in **Buravilli Siva Madhuri Vs. Sri Buravilli Satya Venkata Lakshmana Rao and others** on 25 September, 2012 reported in Criminal Petition. No.9612 of 2010.

GROUND #5 - NO INVESTIGATION AT THE SCENE OF OFFENCE

It is submitted that, Respondent No.1 conducted improper investigation and the investigation report does not comply with the sections of IPC and DP Act and thereby the following consequences were resulted:

- 19) It is submitted that, the Respondent No.1 failed to reveal the facts that only Respondent No.2 and the Petitioner lived together at Hyderabad and failed to reveal the fact that none of the Petitioner's relatives including his parents, ever lived with Petitioner. Moreover, investigation officer failed to collect possible documentary evidences for all the complaint allegations; in contrast, the documentary evidences information provided by Petitioner No.1 prove that allegations were false. Respondent No.1's investigation did not reveal the fact that in-laws never made/received phone calls to Respondent No.2 or to her family. Respondent No.1 failed to collect the documentary evidences in support of the Respondent No.2 allegations and still charges were made on in-laws. Respondent No.1 supplied false information to this Hon'ble Court, through the Section 173(5) submissions, by saying that crime happened in the

jurisdiction of this Hon'ble Court at <<CITY>>. If the offences were held to have happened at <<CITY>> by IO as recorded in the 498a charge sheet, there were no specific harassment/dowry demand allegations on all accused at <<CITY>>, no evidences collected by IO from <<CITY>> in support of these baseless allegations and moreover, surprisingly, no witnesses from <<CITY>> to corroborate the said allegations.

20) Petitioners put their reliance on below reported judgments in support of this ground

- a. Judgement of Hon'ble Dr. Justice B.Siva Sankara Rao in **Amit Kumar Yadav And Others vs State of Telangana** decided on 11 September, 2015 reported in Criminal Petition No.2091 of 2015.

GROUND #6 – INSTITUTING A LITIGATION WITH MALAFIDE INTENTIONS

21) That the filing of the complaint, unleashed by Respondent No.2, with an uncontained malicious vendetta, after an unexplained delay of around 3 years, despite having any admissible justification or documentary evidence or supporting independent witness in front of Hon'ble Trial Court, and more so, liable to be dismissed based on above 5 grounds, is nothing but vivid creation of an afterthought and ripe to declare a manifestly mala fide litigation with ill-will towards the accused Petitioners.

22) Another case under **PWDV Act (DVC No. 14/2017)** was filed in this very same court, on same set of Petitioners with exact same allegations as alleged in the instant case, except few additional details were mentioned such as her earlier marriage and subsequent divorce which were missing in this instant case. No evidence for either earlier marriage nor divorce later on, were produced. These Lis have caused severe mental trauma to the elderly Petitioners No.2 and 3 who are already suffering from life impacting diseases such as heart ailments, High BP, Seizures and Diabetes. Petitioner No.3, being a respectable Hindi pandit in a Govt-aided girls' high school, while on duty in her school, has passed out and collapsed to ground all of a sudden, which was concluded later on as an instance of Seizures (fits) caused by the primary reason of Abnormal levels of glucose in her blood stream which is due to severe mental stress caused to her by these frivolous cases. She could have succumbed to the stress-induced circumstances and deteriorating health condition, if not for the love and care of our family.

23) As evident from the declaration by Respondent No.1 in the charge sheet (on Page 2), "A1 stopped to give money to L.W.1 from October 2016" as she refused to come to Bangalore leaving Hyderabad, leaving her ambition to become Cini Artist", it is this act of Petitioner No.1 that triggered this malicious litigation within 6 months' time, and the Domestic Violence Case within 6 months thereafter. To give the importance of this fact, Petitioner No.1 has been sending on an average Rs.30,000 to Rs.35,000 almost every month at least from June 2013 to Respondent No.2 for her livelihood at Hyderabad totaling to a whopping amount above Rs.38,00,000/- whereas Petitioner No.1 was working hard to earn that money in Bengaluru. This can be corroborated from the entries in the HDFC bank statement of Petitioner No.1, collected by Respondent No.1 from Petitioner No.1 during initial investigation.

Another undisputed fact is that, based on these exact same facts and circumstances, Hon'ble High Court of Andhra Pradesh has granted Anticipatory Bail to Petitioner No.1 under 438 Cr.P.C.

24) Petitioners put their reliance on below landmark judgment in support of this ground

- a. Allegation Category 7 from Judgement of Hon'ble Supreme Court of India in **State of Haryana Vs Ch Bhajan Lal** decided on 21 November, 1990, reported as [1992 Cri LJ 527= AIR 1992 SC 604] or [1992 AIR 604] or [1992 Supp (1) SCC 335].

GROUND #7 - APPROACHING THE COURT WITH UNCLEAN HANDS

25) It is submitted that, in addition to the instant malicious litigation as averred in Para 19 above which holds material facts suppressed in this instant case, Respondent No.2 also claimed in her complaint in this case, that PetitionerNo.1has never given any money to her towards household expenses and thereby neglected her. It is also claimed that the parents of the Respondent No.2 have sent her money, with a lot of hardships. It is conveniently mentioned in the complaint, as well as in the FIR, which states that "he even stopped to give amount for her livelihood, discarded her" referring to PetitionerNo.1.

26) In stark contrast to this version from Respondent No.2, all the independent witnesses, from L.W.4 to L.W.7, who are all co-located in the same/near the apartment building along with Respondent No.2 @ Hyderabad which is her

matrimonial home, clearly called out in their Cr.P.C 161 statements deposed to Respondent No.1, that Respondent No.2 is a dubbing artist who works in Television serials & Feature films/Movies in addition to working as Supporting Artist which categorically establishes Respondent No.2's livelihood for many years, at least since 2010 from the time she relocated to Hyderabad from Pune.

- 27) In addition to this fact, post-investigation, Respondent No.1 himself declared in the charge sheet that, *"Infact,A1 attended the needs of L.W.1 and her relatives many time"*. Obviously, this declaration by Respondent No.1 can only be made on his perusal of any valid documentary evidence obtained from the custody of Petitioner No.1, which may/may not be made part of the challan/charge sheet submitted into this hon'ble Court.
- 28) In addition to that, all the independent witnesses, from L.W.4 to L.W.7 testified that they have not seen Petitioner No.1 from 2014 onwards in Hyderabad. This disclosure by prosecution witnesses themselves, aptly glorifies the malicious intent with which Respondent No.2, instigated and evident brainwashing done by her parents to constitute this case, have suppressed material facts in front of Hon'ble Court to mislead and gain orders/gains against Petitioner No.1illegally.
- 29) By her mischievous and illegal acts as vividly demonstrated and laid bare in above Paras, the Respondent No.2 has perjured herself clearly in connivance with Respondent No.1 and as such, is liable for prosecution under Cr.P.C 340 read with Cr.P.C 195.

GROUND #8-IMPROPER INVESTIGATION BY INVESTIGATING OFFICER

30)It is submitted that, Fair investigation and Fair trial in a criminal case have been read as part and parcel of **Article 21 of the Constitution of India** which guarantees to every person, the fundamental right to life and personal liberty. The Petitioners have already highlighted, while elaborating on the various grounds taken in about paras, the fundamental lapses and glaring inadequacies in the investigation performed by the Respondent No.1/Investigating Officer in this instant case.

In ***Babubhai case*** (mentioned in below listPara-31), the Hon'ble Supreme Court held that, *"Not only the fair trial but fair investigation is also part of*

constitutional rights guaranteed under Articles 20 and 21 of the Constitution of India. Therefore, investigation must be fair, transparent and judicious as it is the minimum requirement of rule of law. Investigating agency cannot be permitted to conduct an investigation in tainted and biased manner. Where noninterference of the court would ultimately result in failure of justice, the court must interfere.”

*In **Nirmal Singh Kahlo** case (mentioned in below listPara-31), "An accused is entitled to a fair investigation. Fair investigation and fair trial are concomitant to preservation of fundamental right of an accused under Article 21 of the Constitution of India. But the State has a larger obligation i.e. to maintain law and order, public order and preservation of peace and harmony in the society. A victim of a crime, thus, is equally entitled to a fair investigation.”*

*In **Nara Chandrababu Naidu case** (mentioned in below listPara-31), from Para 129, Hon'ble High Court of Andhra Pradesh held that, "It is the primary duty of the investigating agency to investigate into the matter in order to unearth the truth. Fair and proper investigation ensures the identification of perpetrator of the crime. It is the statutory duty of the Investigating Agency to conduct investigation on its own lines without any interruption from any corner.”*

*In **Rajesh Gutta case** (mentioned in below list Para-31), it was held by Hon'ble High Court of Andhra Pradesh that, "In which it is clearly stated that the police Officer has to question the victim girl, witnesses and contradict the witnesses and record the same.*

...

The first duty of the Investigating Officer is to find out the probability and truthfulness of her complaint unless otherwise the complainant's version appraised by the Investigating Officer with the facts and circumstances of the case. Merely recording the statement as stated by the witnesses cannot be called as investigation. Investigation includes examination of the witnesses, confronting the witnesses on the basis of materials collected by the Investigating Officer and also the version of the person who is aggrieved because of the said complaint. Mere reproduction of the complaint without proper examination cannot be called as statement recorded during investigation.”

This ratio is directly applicable in the instant case. As is evident from a simple comparison of the typed complaint in the case and the witness statements of

L.Ws. 1, 2 and 3, it is exact replicate of the complaint in toto, which were incidentally recorded on the same date of complaint filing. One would find no traces of a thorough, procedural and methodical investigation done by Investigating Officer, as prescribed u/s 161 Cr.P.C and as upheld by the Hon'ble High Court of Andhra Pradesh in **Rajesh Gutta case** (supra).

In addition to the above, as can be seen from the Case Dairy entries, the witness statements of L.Ws. 4, 5, 6 and 7 are obtained at Hyderabad on 12 May, 2017 and all 4 of them have similarly testified that,

1. they have not seen Petitioner No.1 from 2014 onwards in Hyderabad
2. they were informed by Respondent No.2 that Petitioner No.1 went to Bengaluru for Job purpose
3. they do not know if there are any differences between Petitioner No.1 and Respondent No.2
4. they know that Respondent No.2 was working as Dubbing Artist in Serials and Supporting Artist in Movies from 2010 onwards

Nowhere does these statements disclose any offence attracting the provisions of IPC 498A allegedly accused on Petitioner No.1.

It is submitted that, if such are the facts of witness statements in totality, when there is no visible basis or support from either the replicated statements of L.Ws.1, 2 and 3 which can be noted as nothing but hearsay in nature or from the witness statements of L.Ws.4, 5, 6 and 7, it is indiscernible and not clear what was the legal basis for the Investigating Officer to file the charge sheet against Petitioner No.1. It is abundantly vivid that the Investigating Officer doesn't have proper understanding on what allegations attract the provisions of IPC 498A and which do not, doesn't have actual knowledge of a catena of judgments from both the Hon'ble Supreme Court of India and Hon'ble High Court of Andhra Pradesh that categorically defined and established what would qualify for both the explanations given for "**cruelty**" as envisaged under IPC 498A.

Explanation.—For the purpose of this section, "cruelty" means—

(a) *any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or*

(b) *harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any*

property or valuable security or is on account of failure by her or any person related to her to meet such demand.

It can be safely concluded, thereby, that the investigation was amply motivated, botched up, improper and incomplete and reeks of malicious intent or half-knowledge which was not sufficient to investigate a case of IPC 498A & which was conducted with fallacies of size, both small and big.

31) Petitioners put their reliance on below landmark judgments in support of this ground

- a. Judgement of Hon'ble Supreme Court of India in **Babubhai Vs State of Gujarat & Ors** decided on 26 August, 2010 reported in Criminal Appeal No. 1599 of 2010, reported as [2010 (12) SCC. 254: 2010 (10) SCR 651] or [2010 (8) TMI 892].
- b. Judgement of Hon'ble Supreme Court of India in **Nirmal Singh Kahlon Vs State of Punjab & Ors** on 22 October, 2008 reported as [(2009) 1 SCC 441]
- c. Judgement of Hon'ble High Court of Andhra Pradesh in **Nara Chandrababu Naidu Vs The State of Telangana** on 9 December, 2016.
- d. Judgement by Justice Raja Elango of Hon'ble High Court of Andhra Pradesh in **Rajesh Gutta Vs State of A.P.** decided on 1 March, 2011.

PRAYER

Hence, in view of afore stated legal grounds which are aptly supported by facts and circumstances, culled entirely from documents submitted and relied on by prosecution itself in the instant case, it is crystal clear that there is no prima facie case made out, attracting said sections of IPC and DP Act and as such, it is most respectfully prayed to this Hon'ble Court that

- 1) The false petition/complaint of the Respondent No.2 may kindly be rejected in its entirety and all the Petitioners No.1, 2 and 3 be discharged from this false litigation implicating them from **April 2017**,
- 2) Heavy exemplary costs be imposed on both the Respondents, for bringing their mutually-connived and botched-up investigation to this Hon'ble Court and

maliciously instituted false lis, as applicable under Cr.P.C 250 or any other relevant provisions of law, in the interest of justice, equity, fair trial for the fraud committed on this Hon'ble Court.

- 3) Any other order/direction/guidelines may also kindly be passed against the Respondent No.1 along with Head of his department/unit, as this Hon'ble Court may deem fit, just and proper, according to the facts and circumstances of the present false case, in a direction to bring about meaningful, effective and improvement in their investigation procedures.
- 4) Any other order/direction may also kindly be passed against the Respondent No.2as this Hon'ble Court may deem fit, just and proper, according to the facts and circumstances of the present false case considering the perjury committed u/s 340 Cr.P.C, by Respondent No.2 on Hon'ble Court.
- 5) Any other order/relief/direction may also kindly be passed in favor of the Petitioners No.1, 2 and 3 and against the Respondents as this Hon'ble Court may deem fit, just and proper, according to the facts and circumstances of the present false case.

AND FOR THIS ACT OF KINDNESS,
THE RESPONDENT SHALL EVER PRAY

Be pleased to consider

Petitioner-in-Person/Accused No.1

Petitioner-in-Person/Accused No.2

Petitioner-in-Person/Accused No.3

Place of filing petition : <<CITY>>
Date of filing petition : 01.04.2019