

**IN THE COURT OF HON'BLE PRINCIPAL DISTRICT AND
SESSIONS JUDGE :: FAKECASE FILED PLACE, RANGAREDDY
DISTRICT**

**Criminal. Revision. Petition. No. /2020
(Preferring Revision against impugned Order passed by
Hon'ble III Addl. Judicial Magistrate, FakeCase Filed Place
in CrI.M.P. No. 123/2019 in C.C. No. 200110/2018)**

Between

1. Mr. WARRIOR HUSBAND, Aged 37 years
Occ: LL.B. (4th Sem) Student, Sri Vijayanagar College of Law, Husband's HomeTown
2. Mr. WARRIOR FIL, Aged 66 years
Occ: Retd. Deputy Tahsildar, Husband's HomeTown
3. Mrs. WARRIOR MIL, Aged 58 years
Occ: Teacher - Hindi Pandit, Husband's HomeTown

All R/O, D.No. 11-698, Ram Nagar, Husband's HomeTown, A.P. 101010
Cell:1234567890

... **Revisionist Petitioner Nos.1-3/Original Accused Nos. 1-3**

And

1. State of A.P., rep by Sub-inspector, Women PS, FakeCase Filed Place
... **Respondent No.1/Investigating Officer**
2. Ms. CUNNING KNIFE, Aged 38 years
D/o CUNNING KNIFE's FATHER, H.No. 12-032-17,
Balaji Revenue Colony Road, Sujatha Nagar,
Outer Ring Road, FakeCase Filed Place, PIN:202020
RangaReddy District, Andhra Pradesh.
Occ: Dubbing Artist and Radio Jockey
... **Respondent No.2/Original Complainant**

COMMON REVISION PETITION FILED BY THE ACCUSED NOS.1-3

U/S 397 R/W 399 OF CRIMINAL PROCEDURE CODE, 1973 (Cr.P.C.)

AGAINST IMPUGNED DISMISSAL ORDER PASSED AGAINST DISCHARGE PETITION IN

CRL.M.P. NO. 123/2019 IN C.C. NO. 200110/2018

The permanent address for service of all notices and court summons process on all the Petitioner(s) named above is: D. No. 11-698, Ram Nagar, Husband's HomeTown, Andhra Pradesh. PIN: 101010. Cell:1234567890

Most Respectfully Showeth,

1. That, the present common Revision petition is moved by all the three Revisionist Petitioners/Original Accused against Dismissal Order dated: 02-03-2020 in **CrI.M.P. No. 123/2019 in the C.C. No. 200110/2018** by the Hon'ble III Addl. Judicial Magistrate Court, arising from FIR. No. 11/2017 on the file of Women PS, FakeCase Filed Place.
2. The Main case **C.C. No. 200110/2018** is still pending at the Trial Court with next date of hearing on 19-03-2020.

BRIEF FACTS PERTAINING TO THE CASE:-

1. That, the Revisionist Petitioners are law-abiding and peace-loving citizens of India and are permanent residents of Husband's HomeTown, Andhra Pradesh. Revisionist Petitioner No.1 is a Law student, studying in the 4th Sem LL.B. in Vijayanagara Law College, Husband's HomeTown, Revisionist Petitioner No.2 is a respected Retired Deputy Tahsildar and Revisionist Petitioner No.3 is a District-level Awardee teacher who is a Hindi Pandit.
2. That, the marriage between Original Complainant Smt. CUNNING KNIFE New Name (Erstwhile CUNNING KNIFE) was solemnized with Revisionist Petitioner No.1 on 06.05.2009 and they both resided in Pune, from 2009 to month of January 2010 and then in Hyderabad from February of 2010 onwards, until Revisionist Petitioner No.1 left to Bengaluru in June of 2013 for joining in Tech Mahindra Company, with the knowledge of Original Complainant. Revisionist Petitioner No.1 and Original Complainant never lived at FakeCase Filed Place as a married couple.
3. The Original Complainant lodged a false and frivolous complaint dated 07.04.2017 in Women P.S. FakeCase Filed Place vide FIR No. 11/2017 against her husband (Revisionist Petitioner No.1), father-in-law (Revisionist Petitioner No.2) and mother-in-law (Revisionist Petitioner No.3) for the alleged offences under section 498A I.P.C and sections 3,4 of Dowry Prohibition Act (DP Act).
4. That, the Revisionist Petitioners/Original Accused had filed a common Discharge Petition u/s 239 Cr.P.C. on 01-04-2019 vide CrI.M.P. No. 123/2019, with 8 legal grounds, sufficiently supported with a catena of relevant Judgments with a fond hope that, Hon'ble Trial Court would discharge the Revisionist Petitioners by application of Judicial mind and by giving due respect to Landmark Reported Precedents of Supreme Court of India and various High Courts of other States, but the aforementioned Dismissal Order got passed on 02-03-2020, negating all the grounds and holding that not even one ground is valid at the stage of Discharge u/s 239 Cr.P.C. A related note is, this Order is not yet uploaded to eCourts platform, as on the date of filing of this Petition. Revisionist Petitioners are not familiar with the established mandate in this regard. The Discharge Petition filed by Revisionist Petitioners is available as **ANNEXURE 'P-1'**, the single-page Counter filed by the learned A.P.P. is available as **ANNEXURE 'P-2'** and finally the impugned Dismissal Order on this Discharge Petition is available as **ANNEXURE 'P-3'**.
5. That, the Revisionist Petitioners/Original Accused submit that, the impugned Order dated 02-03-2020, passed by the Ld. Trial Court is illegal, unjust, unfair, arbitrary, and is against the propositions of the settled law as well as blatant violative principles of natural justice, therefore, the same is liable to be set-aside/quashed, with the gracious orders of this Hon'ble Court on the following **Grounds**, by which the present Revision is maintainable in law and further prays for reliefs/prayers as prayed in **Prayers** section below.

6. That the present petition is being filed within the stipulated period of limitation.

LEGAL GROUNDS:-

- A. **Because**, the impugned Order was based on conjectures and surmises and had been passed without following judicial precedents established by the Hon'ble Supreme Court of India, the Hon'ble High Court of Andhra Pradesh and other Hon'ble High Courts.
- B. **Because**, the Ld. Trial Court failed to appreciate that no prima facie case was made out against the Revisionist Petitioners for their trial for the offences punishable under section 498A I.P.C. and sections 3,4 of DP Act.
- C. **Because**, the Ld. Trial Court failed to appreciate that there was no specific nor direct allegations in the FIR as well as in charge sheet against the Revisionist Petitioners No.2 and 3, with regard to the harassment in pursuance to the dowry demands or torture. The only motive with which they were roped into this false and vexatious criminal case, is to cause irreparable defamation and harassment to the elderly parents of the Revisionist Petitioner No.1
- D. **Because**, the Ld. Trial Court failed to appreciate that the Original Complainant, in collusion and connivance with her parents, roped in parents of her husband, to extract money and property from his parents under the garb of the complaint of the complainant which is apparent from the list of dates and events
- E. **Because**, the Ld. Trial Court also in mechanical and illegal manner, had passed the impugned perverse order, thereby going ahead with framing the charges against all the three Revisionist Petitioners for the offences punishable under section 498A I.P.C. and sections 3,4 of DP Act.
- F. **Because**, the Ld. Trial Court miserably failed to appreciate that the Investigating Officer (I.O.) miserably failed to obtain a single evidence for putting the accused to trial. I.O. had adduced only two documentary evidences in support of his Charge sheet which are a Wedding card and a marriage photo. Any person with iota of common sense can say that, these two evidences do not prove any crime, especially, those that were laid on Revisionist Petitioners.
- G. **Because**, the Ld. Trial Court miserably failed to appreciate the fact that, even to frame charge u/s 240 Cr.P.C., the Court should satisfy itself with the provision of 212 Cr.P.C., which is reproduced for the reference of this Court.

212. Particulars as to time, place and person.—(1) *The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.*

The complete lack of above basic information that should go into the Charge, either from the Complaint, or FIR or the Charge sheet, should be sufficient reason

for the Ld. Trial Court to hold that, the Charge sheet is hopelessly inadequate to bring about any credibility to the prosecution case.

- H. **Because**, the Ld. Trial Court miserably failed to appreciate the fact that, when such key information is missing from Charge sheet, how can the Court calculate the delay in lodging the complaint to hold that, the complaint is not time-barred as prescribed u/s 468 Cr.P.C. and within time limits.
- I. **Because**, the Ld. Trial Court miserably failed to appreciate the legal position 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 Rule Nos. 4 & 5 of the 'The Andhra Pradesh Dowry Prohibition Rules, 1998 (AP DP Act Rules 1998)**, it is mandatory for the Dowry Prohibition Officer (In this case, whoever is the 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 AP DP Act Rules 1998**. The AP DP Rules 1998 are available at **ANNEXURE 'P-4'**.

In **Tammineedi Bhaskara Rao Vs and Ors Vs State of A.P. rep. by Public Prosecutor and Ors [2007 Cri. L.J. 1204]**, it was held that in Para-15,

"15. 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."

This judgment is available as **ANNEXURE 'P-5'**.

- J. **Because**, the Ld. Trial Court miserably failed to appreciate the law settled by **Hon'ble Sri Justice R.Kantha Rao from High Court of Andhra Pradesh, in B.S. Neelakanta and Anr Vs State of A.P. and Anr [Criminal Revision Case No.1788/2011]**, pronounced on 04 December 2013. The Revisionist Petitioners rely heavily on this landmark judgment.

"15. For taking a decision whether to frame a charge or discharge the accused, it is not enough on the part of the trial Court to merely peruse the final report or the complaint, but it has to examine all the material placed along with the final report or complaint. After considering the entire material available on record, if the Court

considers that there is no sufficient ground for proceeding against the accused, then the Court shall discharge the accused and record its reasons for doing so. Therefore, when once the Court arrives at an opinion that there is no sufficient ground to proceed against the accused, it is imperative on the part of the Court to discharge the accused and for that purpose, the Court may have to record reasons for discharging the accused. It is not enough that the contents of the final report or the complaint make out an offence. It is further necessary that there must be a prima facie material to show that the accused had committed the offence. The Court has to scrutinize the material placed on record by applying its judicial mind and for the purpose of framing the charge, it has to arrive at a positive opinion that prima facie case has been made out that the accused committed the offence."

"16...Thus, there is inordinate delay of six years in filing the complaint. Absolutely, there is no explanation for filing the complaint with such an inordinate delay. The delay ought to have been explained either in the FIR or in the final report submitted by the police after investigation. But there is no such explanation forthcoming in this case.

"19. Therefore, in my view, there was no material before the learned trial Court that the accused might have committed the offence. Even grave suspicion, which required for framing charge, is absent in the present case. According to me, the learned trial Court failed to apply its judicial mind to the material placed on record. When there is no prima facie case for framing of charge, it is imperative for the trial Court to discharge the accused and the opinion of the trial Court that it would be known only after letting evidence by the prosecution, cannot be said to be a correct view. The trial Court is required to take a decision either to discharge or to frame a charge only basing on the material available with it. It cannot make the petitioners/accused to face the trial thinking that some evidence would be placed in the course of trial.

20. For all the above reasons, I am of the considered view that the trial Court without applying the judicial mind to the material placed on record by the prosecution erroneously dismissed the discharge petition filed by the petitioners. There is patent error committed by the trial Court in the instant case which obligates this Court to interfere with the said finding, to set aside the same."

The facts and circumstances of the above cited case is similar with the instant case. This judgment is available as **ANNEXURE 'P-6'**.

- K. **Because**, the Ld. Trial Court miserably failed to appreciate the law settled by the Hon'ble Supreme Court of India, which is a binding precedent, in case titled "**Geeta Mehrotra Vs. State of U.P. [(2012) 10 SCC 741]**", had held and observed that:-

"20. Coming to the facts of this case, when the contents of the FIR are perused, it is apparent that there are no allegations against Kumari Geeta Mehrotra and Ramji Mehrotra except casual reference of their names which have been included in the FIR but mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding."

The facts and circumstances of the above cited case is similar with the instant case. This judgment is available as **ANNEXURE 'P-7'**.

- L. **Because**, the Ld. Trial Court miserably failed to appreciate the fact that, the Original Complainant had nowhere averred in her Complaint or the Charge sheet says that the Original Complainant had left or driven away from matrimonial home due to the acts of cruelty committed by the husband or his relatives, the ground of lack of territorial jurisdiction cannot be ignored. As inferred from the Charge sheet, the Revisionist Petitioner No.1 was not at all present at her matrimonial home, Hyderabad from June of 2013 as he was working in Bengaluru from that date and Revisionist Petitioners Nos.2 and 3 were permanent residents of Husband's HomeTown, Andhra Pradesh. These set of facts which can be culled easily from Prosecution documents itself, slipped the eye of Ld. Trial Court, probably, by utter wrong interpretation of the Hon'ble Supreme Court of India judgment in **Rupali Devi Vs State of Uttar Pradesh** , wherein para 16 is reproduced hereinbelow

"16. We, therefore, hold that the courts at the place where the wife takes shelter after leaving or driven away from the matrimonial home on account of acts of cruelty committed by the husband or his relatives, would, dependent on the factual situation, also have jurisdiction to entertain a complaint alleging commission of offences under Section 498A of the Indian Penal Code."

- M. The Ld. Trial Court also erred in holding that Revisionist Petitioners highlighted that there is not a whisper when were the calls made which were not answered. **Not answering telephone calls, even if taken to be true for the sake of**

argument, without any context and cogent reasons/evidence, does not amount to any Crime in India, under any law. The Ld. Trial Court also erred in holding that any cruelty unrelated to Dowry demand does not come under the provisions of section 498A I.P.C. The Explanation portion of this section is reproduced hereinbelow.

“Explanation.—For the purposes 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.”***

The Original Complainant must have produced some sort of record or evidence to substantiate such false claim without which, such allegation is to be treated as Baseless allegations. Such evidence must exist on the record of Ld. Trial Court, but the truthfulness of such evidence may be a matter of trial.

N. **Because**, the Ld. Trial Court miserably failed to appreciate the Allegation Category 7 from Judgement of Hon’ble Supreme Court of India in **State of Haryana Vs Ch Bhajan Lal [1992 AIR 604]** in identifying this case as a falsely instituted case only to exact vengeance on Revisionist Petitioners.

“(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.” This judgment is available as **ANNEXURE ‘P-8’**

O. **Because**, this is not a case where the prosecution was not able to prove its case, but this is a false case where the beneficial laws of India towards women are blatantly misused to harass, threaten, blackmail, extort, defame and ostracize husband and his near and dear into agreeing for monetary settlements by unleashing **Legal terrorism** as held by Hon’ble Supreme Court of India in **Sushil Kumar Sharma Vs Union of India and Ors [2005 SCC 6 281]**. This judgment is available as **ANNEXURE ‘P-9’**.

INTERIM PRAYER

In the interim, the Revisionist Petitioners respectfully pray & request this Hon’ble Court to be pleased to

1. **Stay the pending proceedings at Ld. Trial Court u/s 397 Cr.P.C, pending disposal of the present Revision**
2. **Calling for the Lower Court Records of the Main case in C.C. No. 200110/2018 u/s 397 Cr.P.C.**

FINAL PRAYERS

In summary, the Revisionist Petitioners respectfully pray & request this Hon'ble Court to be pleased to,

1. hold that, the Dismissal Order passed by Hon'ble Trial Court of Kumari. B.Kanaka Lakshmi, is perverse and illegal in law and such Order was passed without any cogent reasons and totally lacking application of Judicial mind.
2. hold that, such Order was passed without any compliance/adherence/binding to the landmark judicial precedents of Supreme Court and thereby, is exhibiting complete lack of Judicial Discipline and is smacking of Gross negligence and willful disobedience and also amounts to gross impropriety.
3. grant order of discharge to all the three Revisionist Petitioners in present Revision Petition against impugned Discharge Order passed in C.C. No. 200110/2018 by the Hon'ble III Addl. Judicial Magistrate Court, in the interests of justice, fair trial and equity as well as especially considering the three long years already consumed in this false, malicious and unwarranted criminal trial from April 2017.
4. grant order of compensation in favor of Revisionist Petitioners, for the trauma caused to them, as applicable under section 250 Cr.P.C. or any other relevant provisions of law, in the interest of justice, equity, fair trial for the fraud committed by Respondents on the Hon'ble Trial Court.
5. grant 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, with a direction to bring about meaningful, effective and improvement in their investigation procedures and litigant-friendly by way of necessary and mandatory trainings/orientation programs.

Lord Hewart in R v. Sussex Justices, ex-parte McCarthy, (1924) 1 KB 256, 259
"It is not merely of some importance but is of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done"

Revisionist No.1/Original Accused No.1

Revisionist No.2/Original Accused No.2

Revisionist No.3/Original Accused No.3

Place of filing petition : FakeCase Filed Place
Date of filing petition : - - 2020-