

**\* HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO**

**+ CRIMINAL PETITION No.2091 of 2015**

% 11-09-2015

# Amit Kumar Yadav and others.

..PETITIONERS

VS.

\$ State of Telangana rep.by Public Prosecutor  
and another.

..RESPONDENTS.

! Counsel for the Petitioners: Akshat Sanghi

^ Counsel for Respondents: The Public Prosecutor (Telangana)

< Gist :

> Head Note :

? CITATIONS :

1. AIR (2004) 7 SC 166
2. (2015) 4 ALT 596 DB
3. (2004) 8 SCC 100

**HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO**

**Cri.P. No.2091 OF 2015**

**ORDER :**

The petitioners, who are A-1 to A-4 in C.C.No.150 of 2014 on the file of Judicial Magistrate of First Class, Manthani, Karimnagar District, filed this petition under Section 482 Cr.P.C. to quash the proceedings in the said case.

2. The learned Magistrate has taken cognizance for the offences punishable under Sections 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act from the police final report, which is outcome of the report of the 2<sup>nd</sup> respondent/*de facto* complainant none other than the wife of A-1 vide Cr.No.1 of 2014 dated 25-03-2015.

3. The brief facts of the case from the police report as well as the investigation material in nut-shell is that the marriage of the petitioner/A-1 was performed on 22-06-2004 in Charan Paduka Kutir, Barhalganj, Gorakhpur as per marriage invitation at page 12 and 13 of the petition and in Hindi and English translation and *de facto* complainant presented the report on 04-01-2014 and the crime was registered on 25-03-2014 for the offences punishable under Sections 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act against four accused. Of

whom, A-1 is husband of *de facto* complainant, A-2 and A-3 are parents of A-1 and A-4 is the brother of A-1, all are residents of Gorakhpur, Barhalgunj, Uttarpradesh. The *de facto* complainant address shown as Centenary colony, Kamanpur Mandal, Karimnagar District. LWs.2 and 3 among eight witnesses shown in the charge sheet are father and mother of LW.1, LWs 4 and 5 are brothers of LW.1 and LW.6 is the neighbour of her house.

4. The gist of the complaint report dated 04-01-2014, which is a private complaint filed before the Learned Magistrate, Manthani referred for police investigation under Section 156(3) Cr.P.C. thereafter in registering the crime later supra in nut shell that after the marriage performed at Gorakhpur of Uttarpradesh, besides what her parents presented of 4.00 lakhs dowry with 8 tolas of gold and other house hold articles including a bike worth Rs.2,00,000/- in meeting demand for marriage, the accused persons about one year after happy marital life in the wedlock started harassing physically and mentally for additional dowry of Rs.1,00,000/- by abusing in filthy and offensive language in saying she is not looking well and beat her indiscriminately and even her father to the demand paid Rs.20,000/- to A-1 with no change even after panchayaths held and assurances were made from their side to treat well, that even on 04-01-2013 she was beaten with stick and sustained head injury and she was necked out by snatching gold ornaments with wearing

cloths and apparel and they threatened with dire consequences and demanding through phone for additional dowry and that on 30-06-2013 all the accused visited her parents house at Kamanpur at about 5.30 pm for discussions and started abusing her in filthy language demanding additional dowry and beat, with kitchen knife threatened and she approached Kamanpur police station and the police advised to take the matter before elders but invain. The police final report from the said report registered as crime supra reads that LW.7 Investigating Officer who registered the crime made efforts to secure presence of accused to counsel them but invain and took up investigation by LW.7 and LW.8 by examination of LWs 2 to 6. It revealed all the accused are residents of Shastry Nagar in Uttar Pradesh harassed LW.1 physically and mentally for additional dowry and ultimately on 04-01-2013 she was beaten and necked out from their matrimonial house and from there she is residing at her parents house and later all accused continued their harassment through phone calls for additional dowry and came to parents house of the *de facto* complainant on 30-06-2013 for discussions and abused in filthy language and thereby committed the offences supra liable for punishment.

5. Not even a single witness examined from the place of the accused as the marriage performed at Gorakhpur of

Uttar Pradesh and the *de facto* complainant after marriage lived till alleged necked out by the accused from the matrimonial house at Shastrinagar, Kanpur or at Gorakpur both in Uttar Pradesh or on 04-01-2013 even investigation no where discloses what are the phone calls she received and from which number to which number even to create any part of cause of action on the receiving information of phone calls within the jurisdiction of Kamanpur of Karimnagar District much less to say on 30-06-2013 allegedly all the accused persons went to the parents house of *de facto* complainant at Kamanpur for negotiations to take back in support of alleged incident.

6. The *de facto* complainant even served, did not choose to appear. All the witnesses are apart from interested nothing is of any independent evidence material collected during investigation. It is knowing apart from allegation of she was necked out on 04-01-2013 even taken for argument sake, the allegation of accused came to her parents place on 30-06-2013, what made her not to give any written report much less by registered post to the Police Superintendent as contemplated by Section 154 Cr.P.C. till the so-called *de facto* complainant filed complaint dated 04-01-2014 in waiting for more than six months to the alleged incident set up within the jurisdiction of Kamanpur. There is no any copy of the police report given if at all to the police who investigated in the final report not even mentioned

about her giving of report earlier and why not crime registered and any further action is taken, for there is any little truth the respondent even served failed to attend before the Court and thereby the Court taken as heard her and heard learned counsel for the petitioners as well as the 1<sup>st</sup> respondent-State.

7. Perused the material filed by the accused persons in support of the quash petition shows there is marriage conciliation deed of 22-03-2013 at Godavarikani between the parties and there is a settlement between the parties executed on Rs.50/-non-judicial stamp in the panchayath held at her in-laws place regarding divorce deed dated 22-03-2013. The said settlement deed speaks that LW.2 none other than the father of *de facto* complainant Deenanath Yadav executed the settlement deed in Gorakpur in the in-laws place of his daughter mentioning his daughter Geeta Devi w/o.Amit Kumar Yadav of their marriage performed at her in-laws place on 22-06-2004, they could not lead happy marital life because of differences occurred leading to strained relations and not able to live together and the panchayath held in the presence of Village Pradhan and reputed persons representing both sides on 04-06-2014 at Primary School ground Misrauli and they reached to a conclusion that household goods, cash and other items which were given by him at the time of marriage of his daughter viz.,

Rs.63,500/-, one gold ring, one gold chain (Mala), Mangalsutra(gold), gold ring, Nose pin gold, Heavy Payal (silver), Thin Payal (silver), Half Kardhan (silver), Nickles gold, ear ring (gold), Gold tika and nose pin handed over to him as per the divorce settlement and from the divorce deed executed dated 22-03-2013 prepared at Godavarikhani and pursuant to which the items are handed over including the cash and in acknowledgment of what was received by the parties also under taken not to initiate any legal proceedings against each other and it is signed in all by 12 persons. The photo is also filed showing LW.2 taking items that were handed over by the accused persons and the documents executed exchanged as one of the enclosures. In fact, the *de facto* complainant suppressed the same and filed private complaint subsequent to the divorce deed on 04-06-2014 and even after the divorce deed and the private complaint, there was settlement and the items of property received by the father of defacto complainant and executed the document regarding the panchayaths held on 04-06-2014 reiterating the divorce deed arrived at Godavarikhani at her parents place to them on 22-03-2013. This is a material fact of existing earlier divorce deed that is suppressed by the *de facto* complainant and once the disputes are settled amicably as per the deed, criminal prosecution that too by suppressing the fact is nothing but an abuse of process as laid down by the

catena of decisions including the judgment of **SJS**  
***Business Enterprises v. State of Bihar***<sup>[1]</sup>. It is held in  
para 13 of the said judgment as under:

".... As a general rule, suppression of a material fact by a litigant disqualifies such litigant from obtaining any relief. This rule has been evolved out of need of the courts to deter a litigant from abusing the process of court by deceiving it. But the suppressed fact must be a material one in the sense that had it not been suppressed it would have an effect on the merits of the case".

8. This Court also in this regard dealt in detail in Crl.P.No.5324 of 2015 dated 01-09-2015 by referring to catena of decisions including Division Bench of this Court in *Inder Raj Agarwal v. Union of India*<sup>[2]</sup>. Thus the complaint filed by the de facto complainant that was referred to the police investigation by the Magistrate and the police final report filed pursuant thereto is the outcome from the suppression of material fact of earlier deed of divorce between the de facto complainant and A-1 through elders amicably and the same reiterated referring in the settlement executed immediately after 04-06-2014 some settlement arrived earlier at Godavarikhani of Karimnagar District also from the panchayhath held and pursuant to which, the items belongs to the de facto complainant and her father lying with accused persons were also returned, the continuation of criminal proceedings there is nothing but abuse of process as held in expressions referred supra as it is a fit case to quash

the calender case. It is also needless to say as held in Y.Abraham Ajith v. Inspector of Police, Chennai<sup>[3]</sup> that the complaint itself discloses while the de facto complainant residing with accused at his place and came out from there i.e. the main cause of action besides marriage in occurring some cause of action to maintain the complainant at her place of parents not sustainable by referring to Section 177 and 178 Cr.P.C.

9. For all these reasons and having regard to the above, the Criminal Petition is allowed and thereby, the proceedings in C.C.No.150 of 2014 on the file of Judicial Magistrate of First Class, Manthani, Karimnagar District are hereby quashed. Miscellaneous petitions, if any pending in this Criminal Petition, shall stand closed.

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**Dr. B. SIVA SANKARA RAO, J**

11 -09-2015

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LR copy to be marked-Yes.

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<sup>[1]</sup> AIR (2004) 7 SC 166

<sup>[2]</sup> (2015) 4 ALT 596 DB

<sup>[3]</sup> (2004) 8 SCC 100