

**THE HON'BLE SRI JUSTICE K.C.BHANU**

**CRIMINAL PETITION NO.7352 OF 2010**

**ORDER:**

This petition is filed under Section 482 Cr.P.C. to quash the proceedings in Cr. No.115 of 2010 on the file of Kanchanbagh Police Station, Hyderabad, which was registered for the offence punishable under Section 3 of the Dowry Prohibition Act, 1961 (for short 'the Act').

2. It is stated in the complaint that the son of the complainant who is working at East Africa, married daughter of the accused and after 25 days of the marriage, he left India to join his services. After his leaving, daughter of the accused went back to join her parents on 05-03-2008 and thereafter, she did not return to the house of the complainant. The relationship between the two families become strain, which lead to pronouncement of divorce on 19-08-2008. After pronouncement of divorce, the accused got filed complaints through his daughter against all the family members of the complainant. It is alleged in the complaint in Cr.No.14 of 2009 of W.P.S. South Zone, Hyderabad, that demand of dowry was made by the complainant apart from gold jewellery and household articles and the same were given to the son of the complainant and the complainant acknowledged the receipt of dowry. It is further alleged that son of the complainant demanded Rs.1 lakh towards additional dowry, otherwise he will pronounce divorce to his wife. It is stated that no demands were made for payment or to provide any articles in the form of any dowry, but the accused has admitted that he provided dowry to the son of the complainant and has repeatedly disclosed in all the complaints given against the complainant and his son through his daughter. It is further alleged that giving and accepting of dowry is an offence punishable under Section 3 of Act. Hence, the complaint.

3. Learned counsel appearing for the petitioner-accused contended that in view of protection under Section 7 of the Act, continuation of proceedings against the petitioner is nothing but abuse of process of law and for that purpose, he relied on a decision reported in **RAM GOPAL SAH V STATE OF JHARKHAND** [\[1\]](#), wherein it was held thus:

**“The petitioner has sought prosecution on the basis of the statement of giving dowry by the father of the complainant. From perusal of the statement made in the complaint, I find no such incriminating statement of voluntarily giving dowry for marriage. The statement regarding giving presents ‘UPHAR’ does not come within the ambit of definition of dowry. Moreover, the father of the complainant is an aggrieved person from whom dowry was being demanded. Such aggrieved person is protected under Section 7 (3) from prosecution under the Act.”**

4. On the other hand, learned counsel appearing for the 2<sup>nd</sup> respondent contended that the accused is not the aggrieved person within the meaning of Section 7(3) of the Act and hence, there is no bar for proceeding against the accused.

5. Under Section 3 of the Act if any person, after the commencement of this Act gives or takes or abets the giving or taking of dowry, he shall be punishable. It does not contemplate a demand or coercion or threat made by one person to another for the purpose of giving or taking dowry. Therefore, this provision makes it clear that giving or taking of dowry by any person is an offence. But Section 7(3) of the Act reads that notwithstanding anything contained in any law for the time being in force, a statement made by the person aggrieved by the offence shall not subject such person to a prosecution under this Act. Therefore, Section 3 of the Act is controlled by cl. (3) of Section 7 of the Act. Ordinarily, the person aggrieved by the offence is the person directly affected or injured. The person aggrieved by the offence is the accused in C.C.No.95 of 2010 on the file of the XIII Additional Chief Metropolitan Magistrate, Hyderabad, but not the complainant or the witnesses. Therefore, statement made by a person aggrieved by the offence is any one of the accused, but not the complainant. Hence, Section 7 (3) of the Act has no application to the present facts of the case. In this view of the matter, the petition is liable to be dismissed.

6. Accordingly, the Criminal Petition is dismissed.

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**K.C.BHANU, J**

**DATED: 21-03-2012**

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[\[1\]](#) II (2009) DMC 848