

High Court of ANDHARA PRADESH

THE HON'BLE SRI JUSTICE P. SWAROOP REDDY
Criminal Petition No. 6642 of 2007

22-11-2007

Kamireddy Mangamma and others

State of AP represented by
the Public Prosecutor

Counsel for the Petitioner: Sri D. Bhaskar Reddy, Advocate

Counsel for Respondent No.1: The Public Prosecutor

:Order:

This petition for granting anticipatory bail is filed by A-3 to A-7 in Cr.No. 251 of 2007 of P.S., Narsaraopet Town, Guntur District.

2. A-3 is the mother; A-4 is the elder sister; A-5 is the brother-in-law, being the husband of A-4; A-6 is the younger sister and A-7 is the brother-in-law, being the husband of A-6, of A-1, the husband of the de facto complainant.

3. According to the complainant at the time of marriage twelve cents of plot worth Rs.6.00 Lakhs; cash of Rs.3.00 Lakhs; gold ornaments of Rs.1.00 Lakh and house hold articles worth Rs.50,000.00 were given to the husband (A-1) at the time of marriage, which was held on 19.5.2006. One month after the marriage, at the instance of A-2 to A-7, A-1 started harassing the complainant. A-3 went to USA some time after the marriage of the complainant and before her leaving for USA, A-3 subjected the complainant to harassment both, physically and mentally and A-5, who is residing in USA is behind the scene in subjecting the complainant to cruelty. He used to change the minds of all the accused to subject her to harassment for money. From USA he used to speak over telephone, everyday and direct the other accused to harass the complainant, as A-5 bore grudge against the complainant. At the instance of A-5 all the accused abused and beat her several times for no fault of her. A-1 became a puppet in the hands of other accused and finally on 30.9.2006 A-1 necked her out from the matrimonial house.

4. Thus most of the allegations in the complaint are vague and petitioner Nos. 2 to 5 are married sisters and their husbands, who are admittedly living elsewhere and out of them, A-5 is living in USA. It is very difficult to believe that from USA A-5 every day used to telephone and instigate the other accused to harass the complainant. As per the complaint, A-5 has grudge against the complainant, but it is not stated as to why A-5 should have grudge against the complainant.

5. The contention of the learned counsel for the petitioners is that A-1, husband of the complainant filed a petition for divorce and a copy of the same is enclosed with this petition. As per the divorce petition, the complainant, herself, has been harassing the petitioners/accused.

6. The nature of allegations referred to in the complaint, particularly against the present petitioners, particularly against petitioner Nos. 2 to 5, the married daughters and their husbands, would show that in all probability, the allegations are false and exaggerated. It is very difficult to believe that the third petitioner used to harass the complainant, all the way from USA by instigating the other accused, particularly when no reasons are shown for him to have any grievance against the complainant. The reference to A-5 in the complaint, might be A-3 and, in fact, even that also would not make any difference.

7. In these circumstances, I hold that it is a fit case for granting anticipatory bail to the petitioners. Accordingly the petition is allowed. All the petitioners, who are A-3 to A-7 in Cr.No. 251 of 2007 of P.S., Narsaraopet Town, on their surrender before the Station House Officer of the said police station, within ten days from today, shall be enlarged on bail, on each of them executing a personal bond for a sum of Rs.10,000-00 with two sureties for the like sum each to the satisfaction of the Station House Officer of P.S., Narsaraopet Town, Guntur District. The petitioners shall abide by the conditions laid down in Section 438 Cr.P.C.

8. Before parting with the petition, I feel it desirable to observe that there is rampant misuse of S.498-A IPC. False complaints are given against kith-and-kin of the husband, including the married sisters and their husbands; unmarried sisters and brothers and married brothers and their wives. There are instances where even young children, aged below ten years, were also implicated in the offences of this nature. My experience, while sitting in matrimonial Bench revealed that several families are ruined; marriages have been irretrievably broken down and chances of reconciliation of spouses have been spoiled on account of unnecessary complaints and the consequent arrest and remand of the husbands and their kith-and-kin. To discourage this unhealthy practice, it is desirable that anticipatory bail is granted very liberally in all cases of S.98-A IPC, particularly when the petitioner/accused is not the husband of the complainant and when the allegations are not very specific and prima facie do not inspire confidence.

9. Section 498-A IPC is incorporated by the Legislature basically in the interest of women and to safe guard them from harassment. But, it has become somewhat counter productive. In several cases, women are harassed, arrested and humiliated on the complaints given under section 498-A IPC. The truth or otherwise of the allegations is subject to proof. For giving complaint absolutely no authentic and prima facie material like medical evidence is required, but on such complaints, in several cases, number of women are being arrested. In cases of arrest of married young women, they might face problems from their husbands and in-laws; in case unmarried women are arrested their marriage prospects would be badly affected and if government servants are arrested their service prospects are affected. In the present case, only one woman is the alleged victim; but at least four women might have to go to jail even before trial, effecting their reputation, subjecting them to rude treatment at Police Station etc.

10. Only in cases where, strong and authentic evidence like letters written by the accused-husband to the spouses or their parents etc., are available and where there is sufferance of serious injuries or death of the victim only,

perhaps, it is desirable to refuse anticipatory bail, that, too, for the accused-husband. Another important aspect is in this type of cases; there is no chance of witnesses turning hostile or being influenced by the accused, as the witnesses would invariably be the kith-and-kin of the alleged victim like herself and her parents etc. These aspects have to be kept in view, while dealing with the cases of anticipatory bail/bail in cases of offences involving section 498-A IPC.

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