

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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CRIMINAL PETITION No.3531 of 2015

ORDER:

The instant petition is filed by the petitioners, under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), requesting to quash the proceedings in FIR.No.30 of 2015 of Mandapeta Rural Police Station, East Godavari District, for the offences punishable under Sections 498-A and 506 read with 34 IPC alleged against the petitioners who are arraigned as accused Nos.1 and 2 respectively.

The complaint reflects that the second respondent, who is the wife of the first petitioner, and incidentally, the daughter-in-law of the second petitioner, filed a private complaint on 20.11.2012 which was referred to the concerned police, under Section 156 (3) Cr.P.C, by the learned Magistrate on 20.11.2012 itself, but the police registered it on 03.02.2015.

Heard both sides.

Learned counsel for the petitioners submits that, there has been inordinate delay in lodging the complaint, since the first petitioner filed O.P.No.131 of 2012 on the file of Senior Civil Judge, Ramachandrapuram, seeking dissolution of marriage, and grant of decree of divorce on 25.01.2012, and only as a counter blast, the instant complaint was filed before the learned Magistrate on 20.11.2012 and that itself would falsify the allegations levelled therein and, therefore, requests to quash the proceedings in FIR.

Learned Additional Public Prosecutor appearing for the Andhra Pradesh State opposed the request.

As seen from the complaint, there are two main allegations levelled by the second respondent – complainant, first, the petitioner used to suspect her fidelity, and second, there was demand for additional dowry of Rs.2.00 lakhs, the demand being made on 27.02.2011 according to the complainant, which was prior to the date of filing of O.P. These aspects can only be gone into during the course of investigation when evidence is collected by the investigating agency. At this stage, the material on record, prima facie is sufficient to proceed with investigation. However, keeping in view, the circumstance that the private complaint was filed on 20.11.2012, and a divorce petition was filed on 25.01.2012, the investigating agency is directed to resort to the procedure, under Section 41-A Cr.P.C., as per the decision of the Hon'ble Supreme Court in Arnesh Kumar v. State of Bihar.

The Criminal Petition is, accordingly, disposed of.

As a sequel thereto, miscellaneous applications, if any, also stand disposed of.

A. SHANKAR NARAYANA, J

Date:27.04.2015

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