

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4036 of 2015

ORDER:

_____ This petition is filed under Section 482 Cr.P.C. to quash the proceedings in C.C.No.469 of 2013 on the file of the II Additional Judicial First Class Magistrate, Rajahmundry.

2. _____ Heard the learned counsel for the petitioner and the learned Public Prosecutor.

3. _____ A perusal of the record reveals that the petitioner, who is A.3, is facing trial in C.C.No.469 of 2013 for the offences punishable under Sections 420, 343, 382, 386, 448, 465, 506 and 120-B read with 34 I.P.C.

4. _____ The first respondent filed a private complaint and the same was referred to the Station House Officer, Prakash Nagar Police Station, East Zone, Rajahmundry Urban, who in turn registered a case in Crime No.101 of 2012 for the offences punishable under Sections 420, 343, 382, 386, 448, 465, 506 and 120-B read with 34 I.P.C. After completion of the investigation, the Investigating Officer laid charge sheet against the petitioner and others under the above referred Sections. The learned Magistrate has not committed any irregularity or illegality while taking cognizance of the offences against the petitioner and others. If this Court expresses any opinion at this point of time, the same may cause prejudice to either of the parties to the proceedings. The material available on record is *prima facie* sufficient to take cognizance of the offences against the petitioner.

5. In **Madhu Limaye Vs. State of Maharashtra**^[1] the Hon'ble Supreme Court held as under:

“At the outset the following principles may be noticed in relation to the exercise of inherent power of the High Court, which have been followed ordinarily and generally, almost invariably,

barring a few exceptions.

1. That the power is not to be resorted to if there is a specific provision in the Code for the redress of the grievance of the aggrieved party;
2. That it should be exercised very sparingly to prevent abuse of process of any Court or otherwise to secure the ends of justice;
3. That it should not be exercised as against the express bar of law engrafted in any other provision of the Code."

I n Padal Venkata Rama Reddy @ Ramu Vs. Kovvuri

Satyanarayana Reddy^[2], the Hon'ble Supreme Court held as under:

13. It is well settled that the inherent powers under Section 482 can be exercised only when no other remedy is available to the litigant and not in a situation where a specific remedy is provided by the statute. It cannot be used if it is inconsistent with specific provisions provided under the Code (vide *Kavita v. State* {2000 Cri LJ 315 (Del)} and *B.S. Joshi v. State of Haryana* {(2003) 4 SCC 675}. If an effective alternative remedy is available, the High Court will not exercise its powers under this section, specially when the applicant may not have availed of that remedy.

6. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, I am of the considered view that it is not a fit case to quash the proceedings at this point of time.

7. A perusal of the record reveals that the marriage of the petitioner was performed on 17.03.2012 whereas the first respondent lodged the complaint to the police against the petitioner and others on 31.05.2012.

8. The learned counsel for the petitioner submitted that the petitioner is residing at Vizianagaram and the C.C. is pending in Rajahmundry. Therefore, the petitioner may face some difficulty to attend the trial Court at Rajahmundry on each and every date of adjournment. Hence, her presence may be dispensed with.

9. There is no dispute with regard to the identity of the petitioner. Even if the presence of the petitioner is dispensed with, no prejudice will be caused to the first respondent. Hence, the presence of the petitioner, who is A.3 in C.C.No.469 of 2013 on the file of the II Additional Judicial First Class Magistrate, Rajahmundry, is hereby dispensed with on each and every date of adjournment. However, she shall appear before the trial Court as and when her presence is so required. The trial Court is at liberty to pass appropriate orders in case the petitioner/A.3 shall not comply the directions given by it.

10. With the above observations and direction, the Criminal Petition is dismissed.

11. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

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T.SUNIL CHOWDARY, J

Date: 29.04.2015

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[\[1\]](#) (1977) 4 SCC 551

[\[2\]](#) (2011) 12 SCC 437