

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.12090 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C., to quash the proceedings against the petitioner/accused in C.C. No.460 of 2013 on the file of the court of II Additional Judicial Magistrate of First Class, Tanuku.

2. The contention of the learned counsel for the petitioner is that the second respondent, during the subsistence of her valid marriage with Gummadi Samuel, married the petitioner; therefore, she is not a legally wedded wife of the petitioner to file complaint under Sections 498A and 494 read with 511 IPC against the petitioner. She further submitted that the allegations made in the charge sheet do not constitute the offences much less the offences alleged to have been committed by the petitioners.

3. On the other hand, the learned Public Prosecutor has submitted that this Court cannot quash the proceedings at this juncture.

4. The crucial point that falls for consideration in this matter is whether it is a fit case to quash the proceedings at this stage?

5. The petitioner is sole accused and second respondent is *de facto* complainant in C.C. No.460 of 2013. Basing on the complaint lodged by the second respondent, the Station House Officer, Tanuku, registered a case in crime No.62 of 2013 for the offences under Sections 498A and 494 read with 511 IPC against the petitioner. After completion of investigation, the Investigating Officer laid the charge sheet against the petitioner under Sections 498A and 494 read with 511 IPC. The learned Magistrate, after satisfying himself with the material placed before him, has taken cognizance of the above referred offences and numbered the charge sheet as C.C. No.460 of 2013.

6. There is no doubt that this Court, in exercise of powers vested in it under Section 482 Cr.P.C. can quash the F.I.R or complaint or a charge sheet if the allegations made therein do not constitute the alleged offences. In the instant case, after satisfying himself, the investigating officer filed the charge sheet against the petitioner/accused and at the time of taking cognizance of the

matter, the learned Magistrate also satisfied that there is a prima facie case against the petitioner/accused to proceed further.

7. It is not in dispute that this Court can exercise the power under Section 482 Cr.P.C. sparingly to prevent the abuse of process of the Court. A perusal of the record prima facie reveals that the allegations made in the charge sheet constitute the alleged offences. The Cr.P.C provides various provisions to safeguard the interest of the accused persons. If there is no specific provision in Cr.P.C, then only this Court can exercise power under Section 482 Cr.P.C to protect the personal liberty of the individual. In order to resolve this issue, this court is placing reliance on the following decisions:

a) **Madhu Limya Vs State of Maharashtra**, wherein it was held thus:

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

- (i) 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;
- (ii) That it should be exercised very sparingly to prevent abuse of process of any Court or otherwise to secure the ends of justice.
- (iii) That it should not be exercised as against the express bar of law engrafted in any other provision of the code”

b) **Padal Venkata Rama Reddy @ Ramu V Kovvuri Satyanarayana Reddy**, wherein it was held thus:

“It is well settled that the inherent powers under Section 482 Cr.P.C. 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.L.J. 315 (Delhi) and B.S.Joshi v State of Haryana, 2003 (1) ALD (CrI).842 (SC) = (2003) 4 SCC 675 = AIR 2003 SC 1386= 2003 AIR SCW 1824). If an effective alternative remedy is available, the High Court will not exercise its powers under this section, especially when the applicant may not have availed of that remedy.”

Amit Kapoor v Ramesh Chander, wherein the Hon’ble Apex Court held as follows:

27.2 The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents

submitted therewith *prima facie* establish the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the court may interfere.

27.3 The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.

27.4 Where the exercise of such power is absolutely essential to prevent patent miscarriage of justice and for correcting some grave error that might be committed by the subordinate courts even in such cases, the High Court should be loath to interfere, at the threshold, to throttle the prosecution in exercise of its inherent powers.

8. Whether the second respondent married the petitioner during the subsistence of her valid marriage with Gummadi Samuel is absolutely a disputed question of fact. Whether the petitioner subjected the second respondent to cruelty for additional dowry or not will come to light during the course of trial only. Various questions raised by the learned counsel for the petitioner involves complexity of disputed questions of fact, which cannot be gone into while exercising the inherent power under Section 482 Cr.P.C.

9. Having regard to the facts and circumstances of the case and also in view of the principle enunciated in the cases cited supra, I am of the view that it is not a fit case to quash the proceedings in view of the alternative and efficacious remedy available to the petitioners.

10. Accordingly, the Criminal Petition is dismissed, leaving open the remedies available under law to the petitioners. As a sequel, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

T.SUNIL CHOWDARY, J

November 20, 2015.

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