

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

-

CRIMINAL PETITION No.3634 of 2015

ORDER:

This criminal petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code') by the petitioners, who are arraigned as accused Nos.1 to 6 in Crime No.329 of 2015 of KPHB Police Station, Cyberabad, requesting to quash the proceedings against them in the said crime registered for the offences punishable under Sections 498-A I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

2. The facts, as seen from the complaint and F.I.R., would reveal that accused No.1 is the husband of the *de facto* complainant-2nd respondent herein, accused No.2 is her brother-in-law, accused Nos.3 and 4 are parents-in-law and accused Nos.5 and 6 are sisters-in-law, and they alleged to have subjected the *de facto* complainant-2nd respondent herein to cruelty and that has been the reason certain allegations have been levelled against the petitioners in the complaint. Elaborate details have been made in the complaint touching as to what was paid and given at the time of marriage and subsequent thereto, and the ill-treatment said to have been meted out to her.

3. Heard both sides.

4. Learned counsel for the petitioners submits that the marriage between the 1st petitioner and the 2nd respondent took place on 11.01.2010; and on 07.03.2010, the 1st petitioner left to States on his job, and within no time, she was taken to States by her husband and they stayed there till 25.12.2012 and returned to India, and again, they stayed till 21.02.2015, on which date, the complainant left the society of the 1st petitioner and the 1st petitioner has filed O.P. for restitution of conjugal rights

and when notice was effected on 22.03.2015, as a counterblast she has filed the present complaint. It is according to him, the allegations levelled against the petitioners are only omnibus allegations and do not satisfy legal requirements to connect the petitioners with their complicity in the commission of the offences alleged. Learned counsel has placed reliance on the decision of the Hon'ble Supreme Court in **State of Haryana and others v. Bhajan Lal and Preethi Gupta v. State of Jharkhand**.

5. Learned Additional Public Prosecutor opposed the request.

6. As seen from the material available on record, there is material *prima facie* sufficient to proceed with further investigation. Therefore, it is not a fit case where the abuse of process of law at this stage can be culled out to quash the F.I.R. itself. However, keeping in view, that the petitioner No.2 has been residing at Bangalore, aged 34 years, and petitioner Nos.5 and 6 having been married in the years 2007 and 2009 respectively, which were prior to the date of marriage between petitioner No.1 and respondent No.2, to the extent of petitioner Nos.2, 5 and 6, the Station House Officer, KPHB Police Station, Cyberabad, is directed not to arrest them in Crime No.329 of 2015, but they shall cooperate with the investigating agency for completion of investigation. So far as petitioner Nos.3 and 4, who are parents-in-law of the *de facto* complainant, are concerned, the Station House Officer, KPHB Police Station, Cyberabad are directed to resort to the procedure contemplated under Section 41A of the Code in the said crime, in view of the principle enunciated by the Hon'ble Apex Court in **Arnesh Kumar v. State of Bihar**.

7. With the above directions, the criminal petition is disposed of.

8. As a sequel thereto, miscellaneous petitions, if any pending in this petition, shall stand closed.

A. SHANKAR NARAYANA, J

29th April, 2015

siva