

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.2465 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/A.2 to A.4 in C.C.No.328 of 2014 on the file of the Judicial Magistrate of First Class, Guntakal.

2. Heard the learned counsel for the petitioners and the learned Public Prosecutor.

3. A perusal of the record reveals that the petitioners, who are A.2 to A.4, are facing trial in C.C.No.328 of 2014 for the offences punishable under Section 498-A read with 34 I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

4. As per the allegations made in the charge sheet, the petitioners along with accused No.1 have subjected the second respondent to cruelty for additional dowry.

5. The Station House Officer, Guntakal II Town Police Station registered a case in Crime No.117 of 2014 against the petitioners and another for the offences punishable under Section 498-A read with 34 I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act. After completion of the investigation, the Police laid charge sheet against the petitioners and another under Section 498-A read with 34 I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act. The learned Magistrate has not committed any illegality or irregularity while taking cognizance of the offences against the petitioners and another under Section 498-A read with 34 I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act. The material available on record is *prima facie* sufficient to proceed further against the petitioners.

In **Madhu Limaye Vs. State of Maharashtra** 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.”

In Padal Venkata Rama Reddy @ Ramu Vs. Kovvuri Satyanarayana Reddy, 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. The learned counsel for the petitioners submitted that the petitioners, who are residents of Ananthapuram, are facing much difficulty to attend the trial Court on each and every date of adjournment. Hence, their presence may be dispensed with.

8. The case is pending on the file of the Judicial Magistrate of First Class, Guntakal. Petitioner No.1 is the mother-in-law and petitioner Nos.2 and 3 are brothers-in-law of the second respondent. There is no dispute with regard to the identity of the petitioners. No doubt, the petitioners may face some difficulty to attend the trial Court at Guntakal on each and every date of adjournment. Even if the presence of the petitioners is dispensed with, no prejudice will be caused to the second respondent.

9. Hence, the presence of the petitioners, who are A.2 to A.4 in C.C.No.328 of 2014 on the file of the Judicial Magistrate of First Class, Guntakal, is hereby dispensed with on each and every date of adjournment. However, they shall appear before the trial Court as and when their presence is so required.

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

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

T.SUNIL CHOWDARY, J

Date: 06.04.2015

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