

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.9622 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C., to quash the proceedings against the petitioners/A1 to A3 in C.C. No.284 of 2015 on the file of the court of III Metropolitan Magistrate, Cyberabad at L.B. Nagar.

2. Heard the learned counsel for the petitioners, learned counsel for the third respondent and the learned Public Prosecutor representing the State.

3. The petitioners are A1 to A3 and the third respondent is the *de facto* complainant in C.C. No.284 of 2015. Basing on the complaint lodged by the third respondent, the Station House Officer, Medipally Police Station, Cyberabad, registered a case in crime No.849 of 2014 for the offences under Section 498A IPC and Sections 3 and 4 of Dowry Prohibition Act against the petitioners. After completion of investigation, the Investigating Officer laid the charge sheet against the petitioners under Sections 498A IPC and Sections 3 and 4 of Dowry Prohibition Act. 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.284 of 2015.

4. There is no dispute between the parties with regard to their *inter se* relation. As per the allegations made in the charge sheet, the petitioners subjected the third respondent to cruelty for additional dowry. The Investigating Officer has not committed any illegality or irregularity during the course of investigation. The learned Magistrate also has not committed any illegality or irregularity while taking the cognizance of offences against the petitioners. In order to quash the proceedings, the court has to take into consideration whether the allegations made in the charge sheet are *prima facie* sufficient to proceed further or not. I have carefully perused the charge sheet in order to ascertain whether any allegations are made against the petitioners. The allegations made in the charge sheet are *prima facie* sufficient to proceed against the petitioners.

a) In **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) In **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 CrL.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.”

c) In **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.

5. 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 at this stage.

6. The learned counsel for the petitioners submitted that the presence of

petitioner Nos.2 and 3/A2 and A3 before the trial court may be dispensed with. There is no dispute with regard to the identity of the petitioners. Even if the presence of petitioner Nos.2 and 3/A2 and A3 before the trial court is dispensed with, no prejudice will be caused to the third respondent. Hence, this court is inclined to dispense with the presence of petitioner Nos.2 and 3/A2 and A3 before the trial court.

7. Accordingly, the Criminal Petition is dismissed. The presence of petitioner Nos.2 and 3/A2 and A3 before the trial court on each and every date of adjournment is dispensed with. However, they shall appear before the trial Court as and when their presence is so required. The dismissal of this petition does not preclude the petitioners to file discharge petition before the trial court if the charges are not already framed. Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

T.SUNIL CHOWDARY, J

November 24, 2015.

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