

**THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY**

CRIMINAL PETITION NO.11243 OF 2015

**ORDER:**

This petition is filed under Section 482 of the Code of Criminal Procedure to quash the proceedings in C.C.No.266 of 2015 on the file of the Judicial Magistrate of First Class, Atmakur.

The contention of the learned counsel for the petitioners is two-fold. (1) The allegations made in the charge sheet do not constitute any offence, much less the offence alleged to have been committed by the petitioners. (2) The learned Judicial Magistrate of First Class, Atmakur, has taken cognizance of the offence under Section 498-A read with Section 34 of the Indian Penal Code against the petitioners/A-1 to A-4 in a routine manner.

**Per contra**, the learned Assistant Public Prosecutor submitted that the allegations made in the charge sheet *prima facie* are sufficient to proceed further. He further submitted that the learned Magistrate has not committed any illegality or irregularity while taking cognizance of the offence against the petitioners/A-1 to A-4.

A perusal of the record reveals that the first petitioner is the husband, the second petitioner is the sister-in-law and petitioners 3 and 4 are the parents-in-law of the second respondent. The marriage of the second respondent was performed with the first petitioner on 14.02.2013 as per Hindu rites and caste customs. Immediately after marriage, the second respondent joined the first petitioner and lead peaceful family life for two months. Unfortunately, after two months, bad weather prevailed in the family life of the first petitioner and the second respondent. The second respondent lodged a complaint to the Station House Officer, Atmakur, who in turn registered a case in crime No.31 of 2015 for the offences punishable under Section 498-A read with 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act. After completion of investigation, the Investigating Officer laid charge sheet against the petitioners/A-1 to A-4 for the offences under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act and the same was numbered as C.C.No.266 of 2015. Learned Magistrate, after satisfying himself with the material placed before him, has taken cognizance of the offence against the petitioners/A-1 to A-4 for the aforesaid offences.

I have carefully perused the material available on record in order to ascertain whether the Investigating Officer or the learned Magistrate has committed any illegality or irregularity so as to quash the proceedings in C.C.No.266 of 2015 while exercising inherent power under Section 482 Cr.P.C. A perusal of the record clearly reveals that the Investigating Officer, after satisfying himself, with the evidence collected by him laid charge sheet. The Investigating Officer has not committed any illegality or irregularity during the course of investigation. Learned Magistrate has applied his judicial mind to the material placed before him and has taken cognizance of offence against the petitioners/A-1 to A-4 for the offence under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act.

The fact remains that the first petitioner filed M.C.No.671 of 2015 before the Family Court, Bangalore, for dissolution of marriage between him and the second respondent after filing of the charge sheet.

At the time of argument, learned counsel for the petitioner submitted that the second respondent filed petition under Domestic Violence Act as well as petition under Section 9 of the Hindu Marriage Act. While exercising the inherent power under Section 482 Cr.P.C., this Court is not supposed to express any opinion with regard to the complexity of disputed questions of fact, which ultimately affect the merits of the main case.

If this Court expresses any opinion with regard to the allegations made in the complaint, the same may cause prejudice to either of the parties to the proceedings.

In order to resolve the issue, this Court is placing reliance on the following two decisions.

a) 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 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**, the Hon’ble Supreme Court held as under:

“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.”

While deciding the petition under Section 482 Cr.P.C., the Court has to see whether the material available on record is *prima facie* sufficient to proceed further against the petitioners or not.

The material available on record is *prima facie* sufficient to proceed further against the petitioners/accused Nos.1 to 4. Having regard to the facts and circumstances of the case and also the principles enunciated in the cases cited supra, I am of the considered view that it is not a fit case to quash the proceedings at pre-trial stage. Viewed from any angle, there are no merits in the Criminal Petition.

In the result, the Criminal Petition is dismissed.

Miscellaneous petitions, if any, pending in this Criminal Petition shall stand dismissed.

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(T.SUNIL CHOWDARY, J)

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