

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.10336 OF 2015

ORDER:

1 This petition is filed under Section 482 Cr.P.C to quash the proceedings against the petitioner Nos.1 to 6 who are accused Nos.2 to 7 in C.C.No.424 of 2013 on the file of the I Additional Judicial First Class Magistrate Court, Nizamabad.

2 Heard the learned counsel for the petitioners and the learned Assistant Public Prosecutor appearing for the State.

3 A perusal of the record reveals that petitioners are accused Nos.2 to 7 and the second respondent is the de-facto complainant. A perusal of the record reveals that the first respondent lodged a complaint against the petitioners herein and the first accused in the case with the Station House Officer, Women Police Station, Nizamabad, who in turn registered a case in Cr.No.20 of 2013 for the offences punishable under Sections 498-A of IPC and Section 4 of the Dowry Prohibition Act. After completion of investigation, the investigating officer laid charge sheet against the petitioners and the first accused for the offences punishable under Sections 498-A of IPC and Section 4 of the Dowry Prohibition Act. The learned Magistrate, basing on the material placed before him, has taken cognizance of the offences against the petitioners and the first accused for the offences punishable under Sections 498-A of IPC and Section 4 of the Dowry Prohibition Act and after affording reasonable opportunity to both parties, has framed charges against the petitioners and the first accused for the offences punishable under Sections 498-A of IPC and Section 4 of the Dowry Prohibition Act.

4 The learned counsel for the petitioners submitted that the first accused, who is the husband of the first respondent, died on

19.12.2014 and that the present petition is filed by the accused Nos.2 to 7 in the case. It is his predominant contention that the allegations made in the charge sheet, prima facie, do not constitute the offences alleged to have been committed by the petitioners / A.2 to A.7.

5 I have carefully perused the allegations made in the charge sheet. A perusal of the charge sheet, prima facie, reveals that there are grounds more so valid grounds to proceed further against the petitioners. The trial Court has considered the material available on record in right perspective and framed the charges under sections 498-A of IPC and Section 4 of the Dowry Prohibition Act against the petitioners. Neither the investigating officer nor the learned Magistrate has committed any irregularity or illegality so as to quash the proceedings in C.C.No.424 of 2013.

6 While deciding the petition filed under Section 482 Cr.P.C, this Court has to take into consideration the allegations made in the complaint only. The Court is not justified in embarking upon the enquiry to ascertain the truthfulness or otherwise of the allegations made in the complaint at the initial stage of investigation.

7 It is a settled principle of law that the Court can quash the proceedings in rarest of rare cases. The material available on record is, prima facie, sufficient to proceed further against the petitioners / A.2 to A.7. In **Madhu Limaye Vs. State of Maharashtra**^[1] 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.”

8 Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, I am of the view that this is not a fit case to quash the proceedings at this pre trial stage.

9 At the time of arguments, the learned counsel for the petitioners submitted that the petitioners are facing much difficulty to attend the Court on each and every adjournment. The trial Court has already framed charges. Even if the presence of the petitioners is dispensed with no prejudice will be caused to the first respondent, who is the de-facto complainant. There is no much dispute with regard to the identity of the parties. Having regard to the facts and circumstances of the case, I am inclined to dispense with the presence of the petitioner Nos.2 to 6 who are accused Nos.3 to 7 on each and every date of adjournment before the trial Court.

10 In the result, the Criminal Petition is dismissed. However, the presence of the petitioner Nos.2 to 6 who are accused Nos.3 to 7 in C.C.No.424 of 2013 on the file of the Court of the I Additional Judicial First Class Magistrate, Nizamabad is dispensed with on each and every date of adjournment. But they shall appear before the trial Court as and when their presence is so required. However, the presence of the petitioner No.1 who is accused No.2 is not dispensed with. As a sequel, the miscellaneous petitions, pending in this Criminal Petition, if any, shall stand closed.

T. SUNIL CHOWDARY, J

Date: 2nd November, 2015

Kvsn

^[1] (1977) 4 SCC 551