

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.13081 of 2015

ORDER:

_____ This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/A.1 and A.2 in C.C.No.194 of 2015 on the file of the Judicial First Class Magistrate, Armoor.

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2. _____ Heard the learned counsel for the petitioners and the learned Public Prosecutor representing State.

3. _____ The contention of the learned counsel for the petitioners is two fold: (1) The allegations made in the charge sheet do not constitute the offences punishable under Section 498-A I.P.C. and Section 4 of the Dowry Prohibition Act, 1961, (2) Non-examination of the neighbours of the petitioners is fatal to prosecution case.

4. _____ The learned Public Prosecutor submitted that the allegations made in the charge sheet are *prima facie* sufficient to proceed further against the petitioners.

5. _____ A perusal of the record reveals that the first petitioner is the husband and the second petitioner is the mother-in-law of the second respondent.

6. _____ Basing on the complaint lodged by the second respondent, the Station House Officer, Armoor Police Station registered a case in Crime No.163 of 2015 against the petitioners under Section 498-A I.P.C. and Section 4 of the Dowry Prohibition Act. After completion of the investigation, the investigating officer laid charge sheet against the petitioners for the offences punishable under Section 498-A I.P.C. and Section 4 of the Dowry Prohibition Act. The learned Magistrate, after satisfying himself with the material placed before him, has taken the cognizance of offences against the petitioners under Section 498-A I.P.C. and Section 4 of the Dowry Prohibition Act.

7. The Investigating Officer has not committed any illegality while conducting the investigation. Likewise the learned Magistrate has not committed any illegality or irregularity while taking the cognizance of offences so as to quash the proceedings. It is a settled principle of law that the Court has to take into consideration the allegations made in the charge sheet while taking the cognizance of offences.

8. As per the allegations made in the charge sheet, the petitioners have subjected the second respondent to cruelty for additional dowry amounting to Rs.2,00,000/-.

9. In order to appreciate the contentions raised by the learned counsel for the petitioners, I have carefully perused the material placed before the Court. The test to be applied is whether the allegations made in the charge sheet *prima facie* sufficient to proceed further against the petitioners or not. The material placed before the Court is *prima facie* sufficient to proceed further against the petitioners.

10. 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.”

11. In **Padal Venkata Rama Reddy @ Ramu Vs. Kovvuri Satyanarayana Reddy**^[2], 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.

12. 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.

13. Accordingly, the Criminal Petition is dismissed at the admission stage.

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

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T.SUNIL CHOWDARY, J

Date: 09.12.2015

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[\[1\]](#) (1977) 4 SCC 551

[\[2\]](#) (2011) 12 SCC 437