

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.12997 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused No.1 in C.C.No.1 of 2011 on the file of Judicial First Class Magistrate, Allagadda, Kurnool District.

Heard the learned counsel for the petitioner and the learned Public Prosecutor representing the State.

A perusal of the record reveals that basing on the complaint lodged by the second respondent, the Station House Officer, Allagadda Police Station, registered a case in Crime No.62 of 2009 against the petitioner and another for the offences punishable under Sections 498-A and 307 read with 34 IPC. After completion of investigation, the Investigating Officer laid charge sheet against the petitioner under Section 498-A IPC and deleted the name of accused No.2 and Section 307 IPC. The learned Magistrate after satisfying himself with the material placed before him, has taken cognizance of offence against the petitioner/A1 for the offence punishable under Section 498-A IPC and numbered as C.C.1 of 2011.

The predominant contention of the learned counsel for the petitioner is that the police have not properly investigated into the matter and filed the charge sheet in a routine manner. I have carefully perused the material available on record in order to appreciate the contention of the learned counsel for the petitioner. A perusal of the record clinchingly establishes that the Investigating Officer deleted Section 307 IPC and the name of A2. This itself clearly indicates how meticulously the Investigating Officer collected the evidence before filing of charge sheet. The Investigating Officer has not committed any illegality or irregularity during the course of investigation. It is a settled principle of law while taking the cognizance of offence, the Court has to consider whether there is any *prima facie* case to proceed further against the accused or not.

Learned counsel for the petitioner submitted that the trial Court has issued schedule for the trial. For the reasons best known to the petitioner, he approached the Court at this point of time. The material available on record is *prima facie* sufficient to proceed further against the petitioner. However, if this Court expresses any opinion at this point of time, the same may cause prejudice to either of the parties.

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.

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.

Hence, the Criminal Petition is dismissed. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

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T.SUNIL CHOWDARY, J

Date:08.12.2015

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