

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.11996 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/accused Nos.2 and 3 in C.C.No.195 of 2015 on the file of XIII Additional Chief Metropolitan Magistrate, Hyderabad.

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

3. A perusal of the record reveals that basing on the complaint of the second respondent, the Station House Officer, Women Police Station, CCS DD, Hyderabad, registered a case in Crime No.251 of 2012 against the petitioners and accused No.1 under Sections 498-A, 406 IPC and Sections 4 and 6 of Dowry Prohibition Act. After completion of investigation, the Investigating Officer laid charge sheet against the petitioners and accused No.1 under Sections 498-A, 406 IPC and Sections 4 and 6 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.195 of 2015.

4. The predominant contention of the learned counsel for the petitioners is that even if the allegations made in the charge sheet *prima facie* taken as true and correct, no case is made out against the petitioners, who are accused Nos.2 and 3. In order to appreciate the contention of the learned counsel for the petitioners, I have carefully perused the charge sheet. A perusal of the charge sheet *prima facie* reveals the role played by the petitioners herein. The material placed before this Court is *prima facie* sufficient to proceed further against the petitioners/accused Nos.2 and 3. Neither the Investigating Officer nor the learned Magistrate has committed any illegality or irregularity so as to quash the proceedings in this case.

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 (Cr).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 the principle enunciated in the cases cited supra, this court is of the considered view that it is not a fit case to quash the proceedings at the threshold.

6. The learned counsel for the petitioners submitted that the petitioners herein, who are parents of accused No.1 are facing much difficulty to attend the Court on each and every date of adjournment. He further submitted that the presence of the

petitioners before the trial Court may be dispensed with on each and every date of adjournment.

7. There is no dispute with regard to the identity of the accused. Even if the presence of the petitioners is dispensed with, no prejudice will be caused to the second respondent-complainant. Hence, this Court is inclined to dispense with the presence of the petitioners before the trial Court.

8. Having regard to the facts and circumstances of the case, the presence of the petitioners, who are accused Nos.2 and 3 in C.C.No.195 of 2015 before the Court of XIII Additional Chief Metropolitan Magistrate, Hyderabad, is dispensed with on each and every date of adjournment. However, they shall appear before the trial Court as and when their presence is so required.

9. With the above direction, the Criminal Petition is dismissed. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 18.11.2015

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