

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.12900 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/A.1 to A.7 in Crime No.100 of 2015 of Shahalibanda Police Station, Hyderabad registered for the offences under Sections 498-A and 354 I.P.C., and Sections 4 and 6 of the Dowry Prohibition Act, 1961.

2. The contention of the learned counsel for the petitioners is two fold: (1) The police registered a case in Crime No.288 of 2015 on 05.07.2015 against the second respondent and her family members for the offences punishable under Sections 448 and 506 read with 34 I.P.C. Therefore, the second respondent foisted a false case against the petitioners, (2) The second respondent is not entitled to lodge a complaint against the petitioners under Section 498-A I.P.C. as petitioner No.1 gave divorce to her on 04.07.2015.

3. The learned Public Prosecutor submitted that this is not the stage to go into the merits of the main case.

4. A perusal of the record reveals that the petitioners are accused Nos.1 to 7 and the second respondent is the *de facto* complainant in Crime No.100 of 2015. The second respondent is none other than the wife of petitioner No.1. A perusal of the record further reveals that the second respondent and others are accused in Crime No.288 of 2015 for the offences punishable under Sections 448 and 506 read with 34 I.P.C.

5. As per the allegations made in the complaint, on 02.08.2015, the petitioners went to the house of the second respondent and demanded additional dowry. It is further alleged that petitioner No.4 made an attempt to outrage the modesty of the second respondent.

6. The fact remains that ill-feelings prevailed between the petitioners' family and the second respondent. Whether the second respondent foisted a false case with an ulterior motive to take vengeance against the petitioners or not will come to light during the course of investigation.

7. While exercising the inherent power under Section 482 Cr.P.C., the Court has to take into consideration the allegations made in the complaint only. The Court is not justified in embarking upon an enquiry as to probability, reliability or genuineness of the allegations made in the complaint at the initial stage of investigation. The material placed before the Court is *prima facie* sufficient to investigate into the matter in order to ascertain the truthfulness or otherwise of the allegations made in the complaint.

8. Having regard to the facts and circumstances of the case and also the principles enunciated by the Supreme Court in **R.P.Kapoor v. State of Punjab** and **State of Haryana v. Bhajanlal**, I am of the considered view that it is not a fit case to quash the proceedings at the initial stage of the investigation.

9. The learned counsel for the petitioners submitted that the marriage of petitioner No.4/A.4 will be performed on 19.12.2015, therefore, the concerned Station House Officer may be directed not to arrest the petitioners till completion of the investigation.

10. Taking into consideration the facts and circumstances of the case and also in view of the principle enunciated by the Supreme Court in **Arnesh Kumar v. State of Bihar**, the Station House Officer, Shahalibanda Police Station, Hyderabad is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C in Crime No.100 of 2015 so far as petitioner Nos.1 to 3 and 5 to 7/ accused Nos.1 to 3 and 5 to 7 are concerned. The Station House Officer is further directed not to arrest petitioner No.4/accused No.4 till completion of the investigation.

11. With the above direction, the Criminal Petition is dismissed.

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

T.SUNIL CHOWDARY, J

Date: 04.12.2015

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