

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.2449 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings in C.C.No.651 of 2014 on the file of the V Additional Judicial Magistrate of First Class, Nellore.

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

3. A perusal of the record reveals that the petitioners, who are A.2 to A.4, are facing trial in C.C.No.651 of 2014 for the offences punishable under Sections 498-A, 406 and 324 I.P.C.

4. As per the allegations made in the charge sheet, the petitioners along with accused No.1 have subjected the second respondent to cruelty for additional dowry. It is further alleged that the petitioners have misappropriated the money of the second respondent and also beat her.

5. The allegations made in the complaint are *prima facie* sufficient to proceed further against the petitioners. If this Court expresses any opinion touching the merits of the main case, the same may cause prejudice to either of the parties to the proceedings. The material available on record is *prima facie* sufficient to proceed further against the petitioners.

6. 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.

7. 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.

8. The learned counsel for the petitioners submitted that petitioner Nos.1 and 2 are ladies and petitioner No.3 is none other than the husband of petitioner No.2 and they are facing much difficulty to attend the trial Court on each and every date of adjournment. Hence, their presence may be dispensed with.

9. There is no dispute with regard to the identity of the petitioners. Even if the presence of the petitioners is dispensed with, no prejudice will be caused to the second respondent. Hence, the presence of the petitioners, who are accused Nos.2 to 4 in C.C.No.651 of 2014 on the file of the V Additional Judicial Magistrate of First Class, Nellore, is hereby 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.

10. With the above observations and direction, the Criminal Petition is dismissed.

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

T.SUNIL CHOWDARY, J

Date: 02.04.2015

lvd