

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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CRIMINAL PETITION Nos.2598 AND 2619 OF 2015

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COMMON ORDER:

These two criminal petitions are filed by the petitioners respectively, who are arraigned as Accused Nos.3 and 4, respectively, under Section 482 of Code of Criminal Procedure, 1973, requesting to quash the proceedings in FIR No.2 of 2015 of Station House Officer, Women Police Station, Kurnool. Both the petitions arise out of one and the same incident on the complaint lodged by the 2nd respondent herein.

2. The petitioner in former petition is mother-in-law of the 2nd respondent, while the petitioner in latter petition is sister-in-law. A complaint was lodged by the complainant – G. Vijaya Rani, with the Women Police Station, Kurnool on 06-01-2015, alleging the offences punishable under Sections 498-A and 307 read with 34 of Indian Penal Code, 1860, and under Section 4 of Domestic Violence Act, 2005, against her husband – M. Venkata Subbaiah, her in-laws and sister-in-law.

3. The relevant details are that, the 2nd respondent married to M. Venkata Subbaiah, working in Andhra Pradesh Special Police (APSP) on 24-05-2010, and a sum of Rs.2,00,000/- (Rupees two lakhs), five tolas of gold and Rs.50,000/-(Rupees fifty thousands) towards marriage expenses were given and spent by the parents of the 2nd respondent and, for one month, she was treated well and, thereafter, she was being subjected to harassment on one or other pretext, the details of which, have been mentioned in the first information report. There was a mediation convened through the elders, due to which, she was taken back to the society of her husband.

i) Later, when she gave birth to a female child on 15-01-2012, despite sending intimation, the petitioners and her husband did not even visit to see the child, and on the other hand, they commented that she gave birth to a female child and they would allow her to lead conjugal life. Again, a mediation was convened and, on the advise of mediators, she was taken back to the society of her husband and she was treated well for some days and, thereafter, she was being subjected to harassment, questioning her as to giving birth to a female child, and demanding her to get Rs.2,00,000/- (Rupees two lakhs) additional amount. On which, she even complained to the Commandant of her husband, who has called and counselled him, on which, they kept quiet for some time, and again started ill-treatment and asking her to leave their house and, unless she gets Rs.2,00,000/-, they would not allow her to lead life with her husband even, commenting to kill herself by drowning into a well along with the child.

ii) It is to be found from the complaint that her husband filed F.C.O.P. No.83 of 2012, despite the fact that she was in the custody of her husband itself and he himself withdrew it and, later, he filed F.C.O.P. No.110 of 2012 seeking divorce falsely giving the address of her parents, despite the fact that she was living with him under the same roof and, when the bailiff went to serve a notice, he found that she was staying with her husband itself, on which, even that OP was dismissed.

iii) Later, in the month of January, 2014, when they attempted to strangle her with a saree, she raised shouts, on which, they left her. These are the allegations levelled against the petitioners, respectively and accused No.1.

4. Heard Sri A. Chandraiah Naidu, learned counsel for the petitioners, and the Special Public Prosecutor.

5. The learned counsel for the petitioners submits that there is no specific allegation levelled against either of the petitioners, or at least, to the extent of sister-in-law, who is the petitioner in the latter petition, and that she was

married in the month of August, 2014, leading life with her husband and aspiring a job and, in case, she is arrested, she would lose her prospects of getting a job and, therefore, requests to quash the proceedings.

6. The learned Special Public Prosecutor opposed the request by drawing attention of this Court to certain instances mentioned in the complaint, which are referred to herein before.

7. It is, no doubt true, that in the first information report, the name of petitioner in the latter petition, is not specifically mentioned, but the circumstances are that the marriage of petitioner in the latter petition was taken place in the month of August, 2014, and the allegations touching harassment said to have meted out to the 2nd respondent relate to the period even prior to August, 2014 and 2010 onwards, that too, one month after their marriage. Therefore, at this stage, it cannot be said that there is no material, *prima-faice*, sufficient to investigate into the offences levelled by the 2nd respondent.

8. In any view of the matter, there are no convincing grounds to quash the FIR, under Section 482 of Cr.P.C. However, keeping in view, the submission of the learned counsel so far as petitioner in CrI.P. No.2619 of 2015 is concerned i.e., Smt.

M. Sumalatha – Accused No.4, that in view of the principle enunciated by the Hon'ble Apex Court in **Arnesh Kumar v. State of Bihar**, the Station House Officer, Women Police Station, Kurnool, is hereby directed to follow the procedure contemplated under Section 41A of Cr.P.C. in Crime No.2 of 2015.

9. With the above direction, both the criminal petitions are dismissed.

10. As a sequel thereto, miscellaneous petitions, if any, pending in these petitions, stand disposed of.

A. SHANKAR NARAYANA, J

April 10, 2015.

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Note: Furnish certified copy

of the order by 13/04/2015

(B/o)

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