

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.17032 OF 2016

ORDER:

This Criminal Petition, under Section 482 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to quash the proceedings in Cr.No.167 of 2016 of Kandukuru Town Police Station, Prakasham District, registered against the petitioner for the offences punishable under Section 498-A of Indian Penal Code, 1860 (for short, 'I.P.C.') and Section 4 of Dowry Prohibition Act, 1961 (for short 'the Act').

The *de facto* complainant, who is the second respondent herein, lodged a complaint with the police on 20.11.2016 making several allegations against the petitioner. She admitted that her marriage was performed with the petitioner on 26.10.2012 and it is the second marriage to both of them. It is further alleged that at the time of marriage, the petitioner promised to execute a registered document conveying one Acre of land in her favour, but he did not keep up promise and started harassing her demanding to bring amount from her parents, kicked her with legs and beat her with cheppal on one occasion, later on he developed illicit intimacy with another women and on 03.09.2015, he beat the second respondent while demanding to bring some amount from her parents. Thus, the allegations made in the complaint lodged with the police on its face value accepting on its entirety would constitute an offence punishable under Section 498-A of I.P.C. and Section 4 of the Act.

The only contention of the petitioner before this court is that the cause for lodging the complaint is failure of the petitioner to execute a registered deed in her favour as promised. But this contention cannot be accepted at this stage, as there are specific allegations about subjecting the second respondent to cruelty for her failure to meet the illegal demand for bringing the amount from her parents on more than one occasion. Therefore, the proceedings against the petitioner in Cr.No.167 of 2016 cannot be quashed at this stage.

The court can exercise its inherent jurisdiction under Section 482 of Cr.P.C. only to give effect to any order under the Code or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. When the allegations made in the complaint or FIR on its face value if accepted in its entirety would prima facie constitute an offence, the court cannot exercise its power under Section 482 of Cr.P.C. as laid down by the Apex Court in guideline No.1 in **STATE OF HARYANA VS. BHAJAN LAL**¹, consequently the proceedings against the petitioner cannot be quashed. Even otherwise, F.I.R. is only an information about the occurrence of cognizable offence to the police to set the criminal law into motion and the Court cannot expect minute details of the offence in the FIR, since it is not encyclopedia of facts. Therefore, failure to mention minute details is not a ground to quash the proceedings.

On the other hand inherent power under Section 482 of Cr.P.C. shall not be exercised by the High Court to stifle a legitimate prosecution. The High Court being the highest court

¹ 1992 SUPP (1) SCC 335

of a State should normally refrain from giving a *prima facie* decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard and fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage while exercising jurisdiction under Section of 482 Cr.P.C., it is not permissible for the Court to act as if it was a trial Court. Even when charge is framed at that stage, the Court has to only *prima facie* be satisfied about existence of sufficient ground for proceeding against the accused. For that limited purpose, the Court can evaluate material and documents on records but it cannot appreciate evidence. The Court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused as held by the Apex Court in **STATE OF ORISSA V. SAROJ KUMAR SAHOO**².

In view of the principle laid down by the Apex Court in **STATE OF ORISSA v. SAROJ KUMAR SAHOO**, even if minute details are not available in the complaint lodged with the police, this court cannot quash the proceedings, since it is only an information about the occurrence of cognizable offence to the police to set the criminal law into motion and mere the allegations made in the complaint on its face value if accepted in its entirety would constitute *prima facie* offence punishable

² (2005) 13 SCC 540

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under Section 498-A of I.P.C. and Section 4 of the Act. Therefore, I find no ground to quash the proceedings at this stage and consequently, the criminal petition is liable to be dismissed.

In the result, the criminal petition is dismissed at the stage of admission.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 23.12.2016
BV

