

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.14754 OF 2016

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in Crime No.40 of 2016 on the file of Vangoor Police Station, Mahaboobnagar District, registered for the offences punishable under Sections 498-A, 494, 506 and 109 of Indian Penal Code (for short "I.P.C.") and under Sections 3 and 4 of Dowry Prohibition Act, on the ground that the defacto complainant is residing separately, but implicated the family members of her husband.

The allegations made in the complaint clearly disclosed that the husband of the defacto complainant and his relations subjected the defacto complainant to physical and mental harassment while demanding an amount of Rs.5,00,000/- from her parents house and threatened to desert her in the event of failure to meet their illegal demand and also threatened that they will send A.1 to Saudi Arabia.

The allegations made in the complaint constitute an offence punishable under sections referred above, *prima facie*, if proved; the truth or otherwise of the allegations cannot be gone into in a petition filed under Section 482 of Cr.P.C. Hence, I find *prima facie* material against the petitioner for the offences punishable under Sections 498-A, 506 and 109 of I.P.C. and under Sections 3 and 4 of Dowry Prohibition Act.

So far as the offence punishable under Section 494 of I.P.C.

is concerned, petitioners are Muslims, but petitioner No.1 is married to Hindu, defacto complainant herein. Plurality of marriages is permissible as per Muslim Law and thereby the allegations made in the F.I.R. to attract the offence punishable under Section 494 of I.P.C. are not sufficient to constitute the offence under Section 494 of I.P.C. since the petitioners belong to Muslim community. Therefore, it is appropriate to quash the proceedings in Crime No.40 of 2016 on the file of Vangoor Police Station, Mahaboobnagar District for the offence punishable under Section 494 of I.P.C. only, while declining to quash the proceedings in Crime No.40 of 2016 on the file of Vangoor Police Station, Mahaboobnagar District for the other offences punishable under Sections 498-A, 506 and 109 of I.P.C. and for the offences punishable under Sections 3 and 4 of Dowry Prohibition Act.

At this stage, Sri M.A.K.Mukheed, learned counsel for the petitioners requested to issue necessary directions to the police concerned to follow procedure laid down in Section 41-A of Cr.P.C. and guidelines formulated by the Apex Court in ***“Arnesh Kuamr v. State of Bihar and another¹”***

Therefore, the police are directed to follow the procedure laid down in Section 41-A of Cr.P.C. and guidelines formulated by the Apex Court in ***“Arnesh Kuamr v. State of Bihar and another”*** (referred supra).

Hence, the petition is allowed in part quashing the proceedings in Crime No.40 of 2016 on the file of Vangoor Police Station, Mahaboobnagar District for the offence punishable under

¹ (2014) 8 SCC 273

Section 494 of I.P.C. only, while declining to quash the proceedings for the other offences punishable under Sections 498-A, 506 and 109 of I.P.C. and for the offences punishable under Sections 3 and 4 of Dowry Prohibition Act.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

Date:19.10.2016

Note:

Issue C.C. by 24.10.2016

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