

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL PETITION No.2543 OF 2016

ORDER:

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This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 by the petitioners/A-4 and A-5 seeking to quash the proceedings in C.C.No.73 of 2009 on the file of the Judicial First Class Magistrate, Bodhan, Nizamabad District.

2. Heard and perused the material available on record.
3. The allegation against the petitioners is that they harassed respondent No.2 for additional dowry.
4. Learned counsel for the petitioners contended that the petitioners are staying in Karnataka since ten years and they are no way connected with the alleged harassment of respondent No.2; that initially, respondent No.2 filed a private complaint against A-1 to A-5 before the Judicial First Class Magistrate, Bodhan for the offence punishable under Section 498-A I.P.C. and the same was referred to police; that after receipt of complaint, the same was registered as Crime No.289 of 2008 on the file of Bodhan Police Station against A-1 to A-5; that the Sub-Inspector conducted investigation and recorded the 161 Cr.P.C. statements of the witnesses wherein the father and mother of respondent No.2 have categorically stated that the petitioners are staying at Karnataka since ten years and they are no way connected with the alleged harassment and then, the Sub-Inspector filed charge sheet against A-1 to A-3 only by deleting the names of A-4 and A-5 and the charge sheet was taken on file against A-1 to A-3 for the offence punishable under Section 498-A I.P.C. and numbered as C.C.No.494 of 2008 on the file of the Judicial First Class Magistrate, Bodhan; that later, on 12.11.2008, respondent No.2 filed a private complaint before the Judicial First Class Magistrate, Bodhan

against A-1 to A-5 with the same set of allegations, which were earlier made, and the learned Magistrate recorded the sworn statements of respondent No.2 and her father and took cognizance of the case under Section 498-A I.P.C. against A-4 and A-5 i.e., the petitioners and the same is numbered as C.C.No.73 of 2009. He further contended that trial was conducted in C.C.No.494 of 2008 and the learned Magistrate has acquitted A-1 to A-3 vide judgment dated 12.9.2013 and aggrieved by the said judgment, the State has preferred Criminal Appeal No.40 of 2014 before the VII Additional District and Sessions Judge at Bodhan and the same was dismissed vide judgment dated 8.10.2014; that both the trial Court and the appellate Court came to a conclusion that there is no evidence to show that A-1 to A-3 have harassed respondent No.2 and acquitted them and therefore, the same benefit should be extended to the petitioners herein, and the pendency of the criminal case amounts to abuse of process of law.

5. It is evident from the judgments of both the trial Court as well as the appellate Court that the evidence of respondent No.2 does not attract the offence punishable under Section 498-A I.P.C. Considering the same, this Court is of the view that pendency of the case amounts to abuse of process of law and hence, it is a fit case to quash the proceedings against the petitioners.

6. Accordingly, the Criminal Petition is allowed quashing the proceedings against the petitioners/A-4 and A-5 in C.C.No.73 of 2009 on the file of the Judicial First Class Magistrate, Bodhan, Nizamabad District. Miscellaneous petitions pending, if any, in this Criminal Petition shall stand closed.

JUSTICE RAJA ELANGO

28.3.2016

AMD

THE HONOURABLE SRI JUSTICE RAJA ELANGO

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Date: 28.3.2016

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