

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.15372 OF 2016

ORDER:

This criminal petition, under Section 482 of Criminal Procedure Code, 1973 (for short, 'Cr.P.C'), is filed by the petitioner to quash the proceedings in C.C. No.809 of 2015 pending before the I Additional Judicial Magistrate of First Class, Khammam, Khammam District, for the offence punishable.

The allegations made in the charge sheet against the petitioners, who is brother-in-law and mother-in-law, of the second respondent herein, who is the de-facto complainant, that at the time of marriage, the parents of second respondent have given Rs.1,00,000/- besides presentation of eight tulas of gold ornaments and household articles to the petitioners, and they lived happily for some time. Thereafter, they started demanding Rs.1,00,000/- towards additional dowry, but she was unable to meet the illegal demand, subjected to cruelty, for the offence punishable under Section 498-A of Indian Penal Code, 1860, on the face of allegations made in the complaint.

The word 'dowry' is defined under Section 2 of Dowry Prohibition Act, 1961 (for short, 'the Act'). It is as follows:

“any property or valuable security given or agreed to be given either directly or indirectly:

- a. by one party to a marriage to the other party to the marriage; or
- b. by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person; at or before or any time after the marriage in connection with the marriage of said parties but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies”

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As defined the word 'dowry', receiving gold ornaments and 8 thulas of gold and cash would fall within Section 3 of the Act, and demanding Rs.1,00,000/- and additional dowry attracts Section 4 of the Act. Therefore, the allegations made in the charge sheet would constitute, *prima facie*, an offence on its face value. Therefore, I find no ground to quash the proceedings in the CC, at this stage.

The apprehension of the petitioners is that the first petitioner is working as Junior Assistant in Z.P.H.S. Pinapaka, and in the event of his arrest, he would be put to substantial loss, besides incalculable loss of reputation being an employee and it will have its own impact on his employment as government servant.

Taking into consideration of the role played by the petitioners as per the allegations made in the charge sheet, I find that it is a fit case to direct the Police, WPS, Khammam, not to arrest the petitioners in Crime No.79 of 2015, except by following the guidelines laid down by the Apex Court in **JOGINDER'S KUMAR V. STATE OF UTTER PRADESH AND OTHERS¹** .

In the result, the criminal petition is dismissed.

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

M. SATYANARAYANA MURTHY, J

Date: 28.10.2016
BV

¹ 1994 CrLJ.1981