

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.15607 OF 2016

ORDER:

This criminal petition, under section 482 Cr.P.C., is filed by the petitioners to quash the proceedings in Cr.No.180 of 2013 of II town police station, Visakhapatnam, registered against the petitioners and others for the offence punishable under Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act, 1961.

The second respondent lodged a complaint dated 12.04.2013 against the petitioners and others alleging that they subjected her to cruelty both physically mentally for her failure to meet their illegal demand of additional dowry, while reiterating the contentions that her parents presented Rs.10,00,000/- cash and 5 lakhs worth gold and 5 lakhs worth silver to her husband, brother-in-law and the petitioners herein, as per their demand. On the strength of the complaint, police registered the same as a case in Cr.No.180 of 2013 and the investigation is pending till date.

The only ground urged before this Court is that in view of guidelines laid down by the Apex Court in **ARNESH KUMAR V. STATE OF BIHAR**¹, particularly, as per clause 11.6, a notice is required to be served under Section 41-A Cr.P.C. within two weeks from the date of registration of the crime. But instead of following the procedure, the police issued notice after three years.

¹ 2014(2) ALT (Cri.) 457 (SC)

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But this contention cannot be accepted for the reason that the crime was registered on 12.04.2013 long prior to the judgment of the Apex Court in **ARNESH KUMAR**'s case referred to supra, and in such circumstances, insisting the police to follow procedure as per guideline 11.6 in **ARNESH KUMAR**'s case referred to supra is nothing but directing to do an impossible act.

However, there is certain procedure to be followed i.e. obtaining permission from Superintendent of Police, to issue notice under Section 41-A Cr.P.C. But instead of following such procedure, the investigating agency issued notice under Section 41-A Cr.P.C.

However, it is not a ground to quash the proceedings, but the police are directed to strictly adhere to the guidelines laid down by the Apex Court in **ARNESH KUMAR**'s case referred to supra and issue notice afresh under Section 41-A Cr.P.C. complying necessary formalities.

With the above direction, the criminal petition is disposed of.

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

M. SATYANARAYANA MURTHY, J

Date: 02.11.2016
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