

THE HON'BLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.34106 of 2016

ORDER:

The writ petition is filed by the petitioners seeking a writ of mandamus declaring the action of the fourth respondent in registering the crime No.720 of 2015 under Sections 498-A, 406, 494, 506 read with 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act on a reference made by the Judicial First Class Magistrate, Bhimunipatnam, without assigning any reasons under Section 156(3) of the Code of Criminal Procedure on a private complaint filed by the fifth respondent, as illegal, null and void, contrary to law and also violative of Articles 19 and 21 of the Constitution of India and for a consequential order to quash the crime No.720 of 2015 on the file of the fourth respondent as well as the reference order dated 22.08.2015.

Heard and perused the material.

Learned counsel for the petitioners submits that on an earlier occasion on the basis of the complaint, a case was registered, investigated and a final report was filed and further, the petitioners were acquitted in 2010 itself. Suppressing this fact, the fifth respondent has presented the present complaint before the Magistrate concerned and that the same was referred by the Magistrate without following the guidelines issued in **Priyanka Srivastava v State of Uttar Pradesh** ((2015) 7 SCC 287. Hence, he prays this Court to quash the crime No.720 of 2015 as well as the reference order, dated 22.08.2015.

Learned Assistant Government Pleader for Home (Andhra Pradesh) submits that if the contention of the petitioners is true, the investigating officer will take a decision in accordance with law.

Considering the rival submissions, the investigating officer is directed to verify whether the earlier crime was registered and investigated and whether the said case was disposed of in 2010 itself. The investigating officer

is also further directed, if the learned Magistrate has not followed the guidelines issued in **Priyanka Srivastava's** case, to close the case against the petitioners herein. In the meanwhile, the investigating officer is directed not to arrest the petitioners herein in the present crime.

The writ petition is accordingly disposed of. Consequently, miscellaneous petitions, if any shall also stand disposed of.

JUSTICE RAJA ELANGO

17.10.2016
pln

