

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.40048 of 2016

ORDER:

This writ petition under Article 226 of Constitution of India is filed seeking to declare the action of respondents 2 & 3 in prosecuting the petitioner in false criminal case in PRC No.11 of 2016, on the file of the Additional Judicial Magistrate of First Class, Narasapuram, West Godavari District, for the offences punishable under Sections 498-A & 307 IPC read with 34 IPC and Sections 3 & 4 of the Dowry Prohibition Act, as illegal and arbitrary.

The case of the petitioner is that the petitioner's elder brother's son is married to the 3rd respondent and there are some family disputes pending between the 3rd respondent and her husband. The grievance of the petitioner is that the 3rd respondent has intentionally implicated his name in the complaint lodged by her, which is registered as Crime No.130 of 2015 and after conclusion of the investigation, charge sheet is laid in PRC No.11 of 2016, so as to settle the disputes with her husband.

After arguing for some time, when this Court expressed its opinion that this Court is not inclined to interfere with the trial before the concerned Court, the learned counsel for the petitioner submitted that the petitioner may be permitted to file discharge application and his presence before the trial Court may be dispensed with.

Considering the facts and circumstances of the case and the submission made by the learned counsel for the petitioner, if the petitioner is aggrieved over the pendency of the case and if it is the case of the petitioner that no offence is made out, then the petitioner is at liberty to file a discharge application before the concerned Court informing that the petitioner is not related to the husband of the 3rd respondent and there is no specific overt act against the petitioner to

attract the offences punishable under Sections 498-A & 307 IPC read with 34 IPC and Sections 3 & 4 of the Dowry Prohibition Act and on such application being filed, the concerned Court shall consider the same in accordance with law. Till the disposal of such discharge application, the presence of the petitioner before the concerned Court is dispensed with. The petitioner is directed to appear before the concerned Court for committal of the case.

Accordingly, the Writ Petition is disposed of. No costs. Pending Miscellaneous Petitions, if any, shall stand closed.

RAJA ELANGO,J

Date: 21st November, 2016

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