

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.9220 OF 2010

ORDER:

1 This petition is filed under Section 482 Cr.P.C to quash the proceedings against the petitioner who is accused in C.C.No.298 of 2010 on the file of the Court of the II Additional Chief Metropolitan Magistrate, Vijayawada City.

2 Heard the learned counsel for the petitioner. There is no representation for the 2nd respondent.

3 A perusal of the record reveals that petitioner is the sole accused and the second respondent is the de-facto complainant.

 The marriage of the second respondent was performed with the petitioner herein in the year 1981 as per their caste custom.

 Immediately after the marriage, the second respondent joined the petitioner to lead marital life and they lived together for ten years.

4 As per the allegations made in the complaint, the petitioner developed illicit intimacy with a lady by name Rani. It is further alleged that the petitioner subjected the second respondent to cruelty. On 07.01.2010 the second respondent lodged a complaint against the petitioner herein with the Station House Officer, I Town Police Station Vijayawada, who in turn registered a case in Cr.No.17 of 2010 for the offence punishable under Sections 498-A of IPC.

 After completion of investigation, the investigating officer laid charge sheet against the petitioner for the offences punishable under Section 498-A of IPC. The learned Magistrate, basing on the material placed before him, has taken cognizance of the offence against the petitioner for the offence punishable under Section 498-A of IPC and issued summons.

5 The learned counsel for the petitioner submitted that the

allegations made in the charge sheet, prima facie, do not constitute the offence alleged to have been committed by the petitioner. She further submitted that the second respondent voluntarily left the house of the petitioner and that in order to wreck vengeance the second respondent filed the complaint.

6 I have carefully perused the allegations made in the charge sheet. A perusal of the charge sheet, prima facie, reveals that there are grounds more so valid grounds to proceed further against the petitioner. The trial Court has considered the material available on record in right perspective and took cognizance of the offence under section 498-A of IPC against the petitioner. Neither the investigating officer nor the learned Magistrate has committed any irregularity or illegality so as to quash the proceedings in C.C.No.298 of 2010.

7 While deciding the petition filed under Section 482 Cr.P.C, this Court has to take into consideration the allegations made in the complaint only. The Court is not justified in embarking upon the enquiry to ascertain the truthfulness or otherwise of the allegations made in the complaint at this stage.

8 It is a settled principle of law that the Court can quash the proceedings in rarest of rare cases. The material available on record is, prima facie, sufficient to proceed further against the petitioner. In

Madhu Limaye Vs. State of Maharashtra^[1] the Hon'ble Supreme Court held as under:

“At the outset the following principles may be noticed in relation to the exercise of inherent power of the High Court, which have been followed ordinarily and generally, almost invariably, barring a few exceptions.

1. That the power is not to be resorted to if there is a specific provision in the Code for the redress of the grievance of the aggrieved party;
2. That it should be exercised very sparingly to prevent

abuse of process of any Court or otherwise to secure the ends of justice;

3. That it should not be exercised as against the express bar of law engrafted in any other provision of the Code.”

9 In **Padal Venkata Rama Reddy @ Ramu Vs. Kovvuri Satyanarayana Reddy and others**^[2] the apex Court observed as follows:

13. It is well settled that the inherent powers under Section 482 can be exercised only when no other remedy is available to the litigant and not in a situation where a specific remedy is provided by the statute. It cannot be used if it is inconsistent with specific provisions provided under the Code (vide *Kavita v. State* {2000 Cri LJ 315 (Del)} and *B.S. Joshi v. State of Haryana* {(2003) 4 SCC 675}. If an effective alternative remedy is available, the High Court will not exercise its powers under this section, specially when the applicant may not have availed of that remedy.

10 Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, I am of the view that this is not a fit case to quash the proceedings at this pre trial stage.

11 In the result, the Criminal Petition is dismissed. As a sequel, the miscellaneous petitions, pending in this Criminal Petition, if any, shall stand closed.

T. SUNIL CHOWDARY, J

Date: 15th March, 2016

Kvsn

^[1] (1977) 4 SCC 551

^[2] (2011) 12 SCC 437