

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION No.2036 of 2016

ORDER:

This criminal petition, under Section 482 of the Code of Criminal Procedure, is filed by the petitioners-Accused Nos.2 & 3 seeking to quash the proceedings in PRC No.18 of 2015 on the file of the Additional Judicial Magistrate of First Class, Avanigadda, Krishna District.

Heard and perused the material available on record.

The offences alleged against the petitioners are punishable under Sections 498-A, 323, 324, 506 and 354 r/w.34 IPC and 3 & 4 of the dowry Prohibition Act (for short 'DP Act').

The main contention raised by the learned counsel for the petitioners is that even after reading of the statement given by the aggrieved person, there is no specific overt act against the petitioners – A2 and A3 to attract the offence punishable under Section 354 IPC.

A perusal of the record makes it clear that though the charge sheet discloses that all the petitioners are charged with the offences punishable under Sections 498-A and 506 read with 34 IPC and 3 & 4 of the DP Act, and also A1 is liable for punishment under Sections 354, 324 and 323 IPC, the case was taken on file for the offences punishable under Sections 498-A, 323, 324, 506 and 354 r/w.34 IPC against all the accused and summons were issued to the accused. Whether all the accused have committed the alleged offences or not, is left open to be decided by the trial Court during the course of trial and the same cannot be decided at the threshold invoking the jurisdiction under Section 482 Cr.P.C.

In these circumstances, this Court is not inclined to quash the proceedings against the petitioners at this stage. However, since it is

stated that the summons were issued to the petitioners, the petitioners can be directed to file an appropriate application before the Court below seeking their discharge by raising all the points, now raised before this Court.

Therefore, the Criminal Petition is disposed of with the following directions:

The petitioners are directed to approach the Court below and file an application for discharge and on such application being filed, the Court below is directed to consider and decide the issue, more particularly, with regard to the offence punishable under Section 354 IPC and pass appropriate orders in accordance with law. If the petitioners are aggrieved by any of the orders passed by the Court below, they are at liberty to take recourse to the remedies available to them. Till the disposal of the discharge application being filed by the petitioners, their presence before the Court below is dispensed with and the petitioners are directed to appear before the committal Court on the date of committal of the case.

Miscellaneous petitions pending if any, shall stand closed.

RAJA ELANGO, J

February 18, 2016.
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