THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.16888 OF 2016

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in C.C.No.155 of 2016 on the file of IV Additional Judicial Magistrate of First Class, Tirupati registered for the offences punishable under Sections 498-A, 506 read with Section 34 IPC and Sections 3 and 4 of Dowry Prohibition Act (D.P.Act).

Learned counsel for the petitioners submits that the 2nd respondent is the wife of accused No.1, the petitioners 1 and 2 are accused Nos 2 and 3. They filed the present petition under Section 482 Cr.P.C. to quash the proceedings on various grounds, mainly on the ground that there are no specific allegations against the petitioners on its face value to constitute the offences punishable under Sections 498-A IPC and Section 3 and 4 of D.P.Act. It is also contended that the complaint was lodged after receiving notice in FCOP.No.36 of 2015 to wreck vengeance by abusing process of Court and prayed to quash the proceedings. He also produced statements recorded by the police under Section 161 (3) Cr.P.C. during investigation. A bare look at the contents of charge sheet, there are specific allegations against the petitioners to attract the offence punishable under Section 3 of D.P.Act, since it is specifically averred that on the demand of the present petitioners i.e. A-2 and A-3, the parents of the defacto complainant-the 2nd respondent paid Rs.20,000/- lakhs as dowry besides presentation of gold of 20 tolas etc., This would fall within the definition of

Section 2 of D.P.Act and making demand, receiving and payment of dowry as an offence punishable under Section 3 of D.P.Act. Therefore, these allegations are also supported by the statement of *de facto* complainant recorded under Section 161 Cr.P.C. Hence, these allegations, if accepted on its face value would constitute the offence punishable under Section 3 of D.P.Act.

The other allegation made in the charge sheet is that in-laws and husband of the *de facto* complainant subjected her to cruelty, when she was at Tirupati on 10-02-2015 at about 11 AM demanding additional dowry and beat her father holding collar of his shirt and himself inflected injuries on his body and gave complaint to the police. Causing such harassment or subjecting the *de facto* complainant to cruelty for her failure to meet the illegal demand of dowry and holding shirt collar of her father would certainly amount to cruelty within the definition of Section 498-A IPC. Therefore, the allegations made in the charge sheet on its face value accepting in its entirety would constitute the prima facie offences punishable Section 498-A IPC and under Sections 3 and 4 of D.P.Act.

The main contention of the learned counsel for the petitioners is that there are no allegations against the petitioners, who are in-laws of *de facto* complainant, but their contention is without any merit in view of specific allegations made in both charge sheet and in the statements recorded by the investigating agency under Section 161 (3) Cr.P.C.

The second ground is that the complaint was lodged subsequent to receipt of the notice in FCOP.No.36 of 2015 pending

on the file of Family court-cum-Additional District Judge, Anantapuram. Notice was served on 19-06-2015, but the complaint was lodged on 16-04-2015. Thus, the contention of petitioner that respondent No.2 lodged complaint subsequent to receipt of notice in above FCOP is baseless. Even otherwise, the *de facto* complainant specifically stated about the date and time of incident i.e. 11.30 am on 10-02-2015 at Tirupati, there is every possibility of subjecting her to cruelty making such demand even after filing FCOP, assuming for a moment what the petitioners contended is true, there are specific allegations to constitute the offence punishable under Sections 498-A IPC and Sections 3 and 4 of D.P.Act. This Court cannot exercise its inherent jurisdiction to quash the proceedings under Section 482 Cr.P.C., since such power can be exercised only in exceptional circumstances sparingly and ultimately, the Court cannot make analysis of entire evidence to find out, whether the material on record is sufficient to record conviction of the accused and even if charges are framed at that stage, this Court is only *prima facie* be specific about existence of ground to proceed further against the accused, as held by the Apex Court in the judgment of **State of Orissa v. Sarojkumar Sahoo**[1] and further the Apex court in **State of Haryana v. Bhajan Lal**[2] laid down guidelines. According to guideline No.1 the Court can exercise inherent jurisdiction only where the allegations made in the F.I.R or complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused. But here the allegations made in the charge sheet and in

[1] (2005) 13 SCC 540
[2] 1992 AIR 604

the statement recorded by the police under Section 161 (3) Cr.P.C. during investigation would prima facie constitute the offence on its face value.

So far as the other contention that complaint was lodged as an abuse of process of the Court after receiving notice in FCOP.No.36 of 2015 is without any basis and it was much prior to receipt of notice in the said FCOP. Therefore, I find no ground to quash the proceedings at this stage and I find existence of sufficient grounds to proceed further against the petitioners.

At this stage, learned counsel for the petitioners requests to dispense with the appearance of the petitioners before the Court below. But such order has to be passed by Judicial Magistrate in an application under Section 205 Cr.P.C. depending upon circumstances exercising discretion on recording satisfaction. Therefore, the petitioners may file application under Section 205 Cr.P.C. after putting notice on the respondents and on filing such application, the judicial Magistrate is directed to dispose of the same on the same day after hearing both parties.

With the above direction, this criminal petition is dismissed at the stage of admission. Consequently, miscellaneous petitions, if any, pending in this Petition shall stand dismissed.

JUSTICE M. SATYANARAYANA MURTHY

21.12.2016
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