

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.14522 of 2016

ORDER:

This Criminal Petition under Section 482 Cr.P.C. is filed by the petitioners/A.1 to A.3 to quash the proceedings in C.C.No.1269 of 2011 on the file of I Additional Chief Metropolitan Magistrate, Visakhapatnam.

The petitioners challenged the proceedings on the ground that the allegations made in the charge sheet are false and that the petitioner No.1 obtained divorce in F.C.O.P.No.1351 of 2011, dt. 11.04.2012 and thereby subjecting the petitioner No.1 to harassment on the ground of her failure to meet illegal demand does not arise and that Petitioner No.1 has been staying at Himachal Pradesh when the incident took place and thereby, the allegations in the charge sheet are false and prayed to quash the proceedings.

The petitioner No.2 is father and petitioner No.3 is brother-in-law of the petitioner, who allegedly involved in the said crime. But, during hearing, learned Public Prosecutor for the State of Andhra Pradesh fairly conceded that there is no material against Petitioner Nos. 2 and 3/A.2 and A.3 and requested to pass appropriate orders.

In view of the concession of learned Public Prosecutor for the state of Andhra Pradesh, the proceedings against petitioner Nos. 2

and 3/A.2 and A.3 are quashed exercising power under Section 482 Cr.P.C.

Insofar as the allegations made against petitioner No.1/A.1/husband of *de facto* complainant is that he used to harass her for failure to meet his illegal demand of payment of additional dowry and he used to beat her without any reason. The record further discloses that the parents of the *de facto* complainant paid Rs.3 lakhs on the date of marriage as dowry and the petitioner No.1 and *de facto* complainant lived happily for some time and thereafter the parents of the petitioner started demanding additional dowry with a threat that petitioner will go for second marriage with another girl. Those allegations, on the face value of it, in the charge sheet, would constitute an offence *prima facie* punishable under Section 498-A and 323 of IPC and 3 and 4 of Dowry Prohibition Act. The allegations in the charge sheet discloses that petitioner No.1 caused simple hurt voluntarily on *de facto* complainant, which attracts an offence punishable under Sections 323 of IPC. Therefore, I find no ground to quash the proceedings against petitioner No.1 as the Charge sheet allegations would constitute an offence punishable under Sections 498-A,509, 323 of IPC and Section 3 and 4 of DP Act.

By following the Guideline No.1 of the judgment reported in **State of Haryana and others v. Bhajanlal and others**¹, where the allegations made in the First Information Report or the 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

¹ 1992 Supp (1) SCC 35

case against the accused, this Court finds that it is a fit case to quash the proceedings against petitioner Nos.2 and 3/A.2 and A.3.

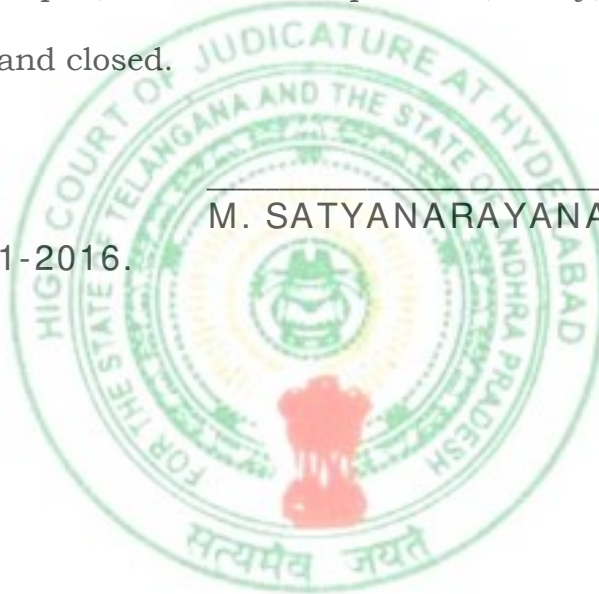
In view of the foregoing discussion, this Criminal Petition is allowed-in-part quashing the proceedings against the petitioner No.2 and 3/ A.2 and A.3 in C.C.No.1269 of 2011 on the file of I Additional Chief Metropolitan Magistrate, Visakhapatnam, while negating quashment proceedings against petitioner No.1/A.1 in the above said C.C.No.1269 of 2011.

As a sequel, miscellaneous petitions, if any, pending in this case, shall stand closed.

Date: 08-11-2016.

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M. SATYANARAYANA MURTHY, J



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Dt. 08.11.2016

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