

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.2796 OF 2017

ORDER:

This Criminal Petition under Sections 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to enlarge the petitioners/A-2 to A-4 on pre-arrest bail since they are apprehending arrest in connection with Crime No.38 of 2017 of Women's Police Station, South Zone, Hyderabad, registered for the offences punishable under Sections 498-A, 406, 506 r/w 34 of IPC, Sections 4 and 6 of Dowry Prohibition Act.

The de facto complainant-Asiya Begum, the wife of Shaik Mohd. Asif who is now employee in shopping Mall at Bahrain lodged a complaint alleging that after her marriage, she stayed for 38 days i.e. from 28.08.2016 to 06.10.2016 with her husband and at the instigation of these petitioners, her husband used to subject her to cruelty.

While the matter stood thus, in the month of October, 2016 her husband left for Bahrain in connection with his employment, thereafter these petitioners started subjecting her to cruelty both physically and mentally by passing sarcastic remarks about the dowry given by her father and they brutally beat her when she objected and kicked her with legs and caused internal injuries on the body of the de facto complainant. More strangely, on Friday i.e. on 13.01.2016⁷ night she was kept in a room and locked from outside without providing food and water for two days and detained illegally so as to force her to meet the illegal demand for payment of Rs.1 lakhs as dowry. Having no other alternative, she

agreed to go to her father to bring Rs.1 lakh for her release from the illegal detention and then they allowed her to drink water and eat food. Again on 16.01.2016 these petitioners sent her to her fathers' house to fulfil their unlawful demand i.e. payment of Rs.1 lakh as additional dowry, but her father expressed his inability to meet the illegal demand, thereafter they subjected her to cruelty in different ways and on one occasion, while she was taking her daily wear clothes, they photographed and videographed the same and threatened that he will get divorce within few days.

Thus, the petitioners subjected her to cruelty for her failure to meet the illegal demand for payment of dowry when her husband was working at Bahrain in Shopping Mall. Thus, the acts if proved would fall within the definition of cruelty under explanation to Section 498-A of IPC and also making demand for payment of additional dowry as defined under Section 2 of Dowry Prohibition Act, attracts an offence punishable under Section 3 of Dowry Prohibition Act, that apart a notice under Section 41-A was issued on 20.03.2017, even then the petitioners did not respond properly so as to enable the investigating agency to complete the investigation. When the petitioners did not respond to the notice under Section 41-A and avoiding their arrest in connection with the above crime, they are disentitled to claim pre-arrest bail since grant of pre-arrest bail is purely discretion of the Court under Section 438 Cr.P.C. and unless exceptional circumstances are shown, this Court cannot exercise its discretion to grant pre-arrest bail.

Therefore, taking into consideration of the facts and circumstances of the case including their failure to appear before the police in pursuance of the notice under Section 41-A, I find that it is not a fit case to enlarge the petitioners on bail in the event of their arrest and consequently, the petition is liable to be dismissed.

In the result, the criminal petition is dismissed.

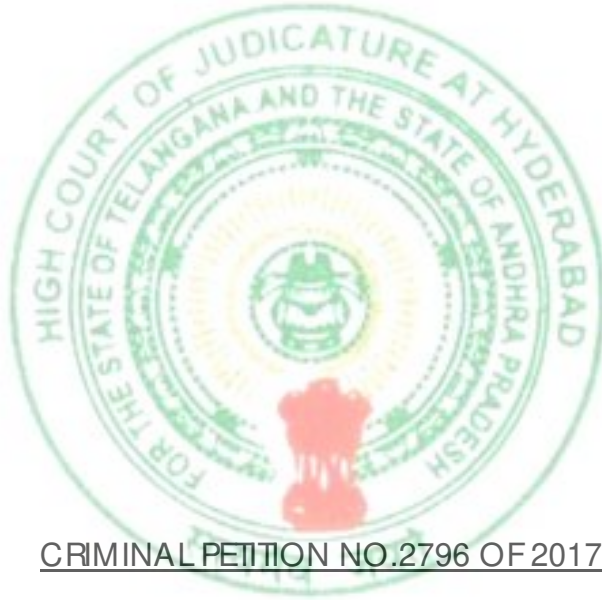
Consequently, miscellaneous applications pending if any, shall also stand dismissed.

Date:11.04.2017
ccm

JUSTICE M. SATYANARAYANA MURTHY



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