

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5470 OF 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/A1 to A3 in Crime No.94 of 2017 on the file of the Station House Officer, Palakol Town Police Station, West Godavari District, registered for the offences punishable under Sections 498-A and 323 r/w 34 IPC.

2. Learned counsel for the petitioners submitted that the 2nd respondent foisted a false case against the petitioners for the reasons best known to her. He further submitted that the allegations made in the complaint do not constitute any offence, much less the offences alleged to have been committed by the petitioners. ***Per contra***, learned Assistant Public Prosecutor submitted that the allegations made in the complaint *prima facie* constitute the offences alleged against the petitioners.

3. A perusal of the record reveals that the petitioners are A1 to A3 and the 2nd respondent is the *de facto* complainant in Cr.No.94 of 2017. A perusal of the record further reveals that the marriage of the 2nd respondent was performed with A1 on 07-02-1993 as per Hindu Rites and Caste Customs. Immediately after the marriage, the 2nd respondent joined A1 to lead happy marital life. Out of lawful wedlock, the 2nd respondent and A1 were blessed with one son and one daughter. As per the allegations made in the complaint, A1 developed illicit intimacy with one Natgamani and subjected the 2nd respondent to cruelty both physically and mentally. It is further alleged that the petitioners herein beat the 2nd respondent.

4. While exercising the inherent power under Section 482 Cr.P.C., the Court has to take into consideration the allegations made in the complaint only. The Court is not justified in embarking upon an enquiry as to probability, reliability or genuineness of the allegations made in the

complaint at the initial stage of investigation. Whether the petitioners committed the alleged offences or not will come to light during the course of investigation. The material placed before the Court is *prima facie* sufficient to investigate into the matter in order to ascertain the truthfulness or otherwise of the allegations made in the complaint.

5. Having regard to the facts and circumstances of the case and also the principle enunciated in **R.P.KAPOOR V. STATE OF PUNJAB** ¹, **STATE OF HARYANA V. BHAJAN LAL** ², **V.Y.JOSE V. STATE OF GURAJAT** ³ AND **TEEJA DEVI V. STATE OF RAJASTHAN** ⁴, I am of the considered view that it is not a fit case to quash the criminal proceedings at the threshold.

6. Taking into consideration the facts and circumstances of the case and also the principle enunciated by the Supreme Court in **ARNESH KUMAR V. STATE OF BIHAR**⁵, the Station House Officer, Palakol Town Police Station, West Godavari District, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.94 of 2017 so far as the petitioners/A1 to A3 are concerned.

7. With the above direction, the Criminal Petition is disposed of. Miscellaneous petitions, if any pending in this petition shall stand closed.

T.SUNIL CHOWDARY, J

DATED:11-07-2017

Hsd

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

⁵ (2014) 8 SCC 273