

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.6192 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C., to quash the proceedings against the petitioner-accused No.1 in Crime No.21 of 2017 on the file of the Station House Officer, Adilabad Women Police Station, registered for the offences punishable under Sections 498-A and 494 of IPC.

2. The learned counsel for the petitioner strenuously submitted that the second respondent foisted a false case against the petitioner 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 petitioner. ***Per contra***, learned Assistant Public Prosecutor submitted that the allegations made in the complaint *prima facie* constitute the offences alleged to have been committed by the petitioner.

3. A perusal of the record reveals that the petitioner is accused No.1 and the second respondent is the *de facto* complainant. The record further reveals that the marriage of the second respondent was performed with the petitioner on 08.3.1985 at Dasturbad as per Hindu rites and caste customs. Out of the wedlock, the petitioner and second respondent were blessed with three children. As per the allegations made in the complaint, the petitioner married one Swathi i.e., accused No.2 and has been residing with her. It is further alleged that after bifurcation of the Districts in Telangana State, the petitioner and Swathi are residing in Nirmal.

The gist of the allegations made in the complaint is that the petitioner has been harassing the second respondent physically and mentally by living with Swathi and not taking care of the second respondent and her children.

4. While deciding the petitions 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 petitioner married Swathi and has been subjecting the second respondent to cruelty 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 Punjab¹**, **State of Haryana v. Bhajan Lal²**, **V.Y.Jose v. State of Gurajat³** and **Teeja Devi v. State of Rajasthan⁴**, 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 Bihar⁵**, the Station House Officer,

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ (2014) 15 SCC 221

⁵ (2014) 8 SCC 273

Adilabad Women Police Station, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C., in Crime No.21 of 2017 so far as the petitioner-accused No.1 is concerned.

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

T.SUNIL CHOWDARY, J

July 26, 2017.
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