

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4790 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.160 of 2017 on the file of the Station House Officer, Garidepalli Police Station, registered for the offence punishable under Section 498-A of IPC and Section 4 of Dowry Prohibition Act.

2. The learned counsel for the petitioner submitted that the second respondent left the house of the petitioner about eight (8) months back and foisted a false case with an ulterior motive to harass the petitioner. He further submitted that the daughter of the petitioner and second respondent is staying with the petitioner. He also submitted that the allegations made in the complaint do not constitute the offence alleged to have been committed by the petitioner. ***Per contra***, learned Assistant Public Prosecutor for the first respondent-State submitted the allegations made in the complaint are *prima facie* sufficient to investigate into the matter.

3. A perusal of the record reveals that the petitioner is accused No.1 and the second respondent is *de facto* complainant in Crime No.160 of 2017. The second respondent is the second wife of the petitioner. The marriage of the second respondent was performed with the petitioner in the year 2009. Out of lawful wedlock, the petitioner and the second respondent blessed with a daughter, who is now aged about 15 years. As per the allegations made in the complaint, the petitioner along with other accused subjected the second respondent to cruelty for additional dowry. It is further

alleged that the petitioner along with other accused forced the second respondent to give divorce to the petitioner.

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 petitioner has committed the alleged offences or not and whether the daughter of the petitioner and the second respondent is staying with the petitioner 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, Garidepalli Police Station, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C., in Crime No.160 of 2017 so far as the petitioner-accused No.1 is concerned.

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

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

T.SUNIL CHOWDARY, J.

June 23, 2017.
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