

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4855 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners-accused Nos.2 to 7 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 petitioners submitted that the second respondent left the house accused No.1 about eight (8) months back and foisted a false case with an ulterior motive to harass the petitioners and accused No.1. He further submitted that the daughter of second respondent and accused No.1 is staying with accused No.1. He also submitted that the allegations made in the complaint do not constitute the offence alleged to have been committed by the petitioners. ***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 petitioners are accused Nos.2 to 7 and the second respondent is *de facto* complainant in Crime No.160 of 2017. The petitioners are the family members of accused No.1. The second respondent is the second wife of accused No.1. The marriage of the second respondent was performed with accused No.1 in the year 2009. Out of lawful wedlock, the second respondent and accused No.1 were blessed with a daughter, who is now aged about 15 years. As per the allegations made in the complaint, the petitioners along with accused No.1 subjected the second respondent to cruelty for

additional dowry. It is further alleged that the petitioners forced the second respondent to give divorce to accused No.1.

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 have committed the alleged offences or not and whether the daughter of accused No.1 and the second respondent is staying with accused No.1 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

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

No.160 of 2017 so far as the petitioners-accused Nos.2 to 7 are concerned.

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 27, 2017.
YS

