

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.24686 OF 2017

Date 04.10.2017

Between:
Kommineni Stalin.

... Petitioner

AND

The State of Telangana rep. by its Principal Secretary,
Home Department, Secretariat, Hyderabad and others.

.....Respondents



HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 24686 of 2017

ORDER:

The action of respondent No.4, in summoning the petitioner to the police station and forcing him to give divorce to respondent No.5, is questioned in the writ petition as being illegal and arbitrary.

Learned Government Pleader for Home (TG), on instructions, would submit that, based on the complaint of respondent No.5, Crime No.63 of 2017 was registered on 25.07.2017 for the offences under Sections 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act and petitioner is being called to the police station only for the purpose of investigation.

As can be seen from the averments as well as written instructions, respondent No.5, wife of the petitioner, filed a complaint against the petitioner which was registered as FIR.No.63 of 2017 on 25.07.2017 on the file of Women Police Station, Khammam, for the offences under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act.

In **Rajesh Sharma v. State of U.P.** (Crl.A.No.1265/2017 dated 27.07.2017 (SC), the Supreme Court had clearly laid down the norms and method of investigation that can be done. The broad guidelines are as under:

i) (a) In every district one or more Family Welfare Committees be constituted by the District Legal Services Authorities preferably comprising of three members. The constitution and working of such committees may be reviewed from time to

time and at least once in a year by the District and Sessions Judge of the district who is also the Chairman of the District Legal Services Authority.

(b) The Committees may be constituted out of para legal volunteers/social workers/retired persons/wives of working officers/other citizens who may be found suitable and willing.

(c) The Committee members will not be called as witnesses.

(d) Every complaint under Section 498A received by the police or the Magistrate be referred to and looked into by such committee. Such committee may have interaction with the parties personally or by means of telephone or any other mode of communication including electronic communication.

(e) Report of such committee be given to the Authority by whom the complaint is referred to it latest within one month from the date of receipt of complaint.

(f) The committee may give its brief report about the factual aspects and its opinion in the matter.

(g) Till report of the committee is received, no arrest should normally be effected.

(h) The report may be then considered by the Investigating Officer or the Magistrate on its own merit.

(i) Members of the committee may be given such basic minimum training as may be considered necessary by the Legal Services Authority from time to time.

(j) The Members of the committee may be given such honorarium as may be considered viable.

(k) It will be open to the District and Sessions Judge to utilize the cost fund wherever considered necessary and proper.

ii) Complaints under Section 498A and other connected offences may be investigated only by a designated Investigating Officer of the area. Such designations may be made within one month from today. Such designated officer may be required to undergo training for such duration (not less than one week) as may be considered appropriate. The training may be completed within four months from today;

iii) In cases where a settlement is reached, it will be open to the District and Sessions Judge or any other senior Judicial Officer nominated by him in the district to dispose of the proceedings including closing of the criminal case if dispute primarily relates to matrimonial discord;

iv) If a bail application is filed with at least one clear day's notice to the Public Prosecutor/complainant, the same may be decided as far as possible on the same day. Recovery of disputed dowry items may not by itself be a ground for denial of bail if maintenance or other rights of wife/minor children can otherwise be protected. Needless to say that in dealing with bail matters, individual roles, prima facie truth of the allegations, requirement of further arrest/ custody and interest of justice must be carefully weighed;

v) In respect of persons ordinarily residing out of India impounding of passports or issuance of Red Corner Notice should not be a routine;

vi) It will be open to the District Judge or a designated senior judicial officer nominated by the District Judge to club all connected cases between the parties arising out of matrimonial disputes so that a holistic view is taken by the Court to whom all such cases are entrusted; and

vii) Personal appearance of all family members and particularly outstation members may not be required and the trial court ought to grant exemption from personal appearance or permit appearance by video conferencing without adversely affecting progress of the trial.

viii) These directions will not apply to the offences involving tangible physical injuries or death.

Respondent No.4 – Station House Officer shall not harass the petitioner in any manner and strictly adhere to the guidelines laid down by the Supreme Court for the purpose of enquiry and, if the petitioner is required, written notice be issued invoking Section 41A Cr.P.C. specifying the date on which he is required to appear, and the Station House Officer shall complete the questioning on the stipulated date itself. The Station House Officer shall keep in mind that violation of the guidelines of the Supreme Court would invite initiation of contempt against him.

The Writ Petition is, accordingly, disposed of. Miscellaneous Petition pending, if any, shall also stand dismissed. However, in the circumstances, without costs.

CHALLA KODANDA RAM,J

Date: 04.10.2017
 usd

