

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1934 OF 2017

ORDER:

Requesting to quash the proceedings in the First Information Report in Crime No.120 of 2016 of Cherukupalli P.S., Guntur District, the present petition is filed under Section 482 of the Criminal Procedure Code, 1973 (for short, 'the Code').

2. The petitioners herein are arraigned as accused Nos.2 to 5 in the aforesaid Crime. They along with accused No.1, who is the husband of the 2nd respondent/*de facto* complainant alleged to have committed the offence punishable under Sections 498-A of IPC and Sections 3 & 4 of Dowry Prohibition Act, 1961.

3. Heard Sri Y. Nagireddy, the learned counsel for the petitioners and the learned Assistant Public Prosecutor for the State of Andhra Pradesh.

4. The learned counsel for the petitioners would submit that except a bald allegation that the petitioners herein supported A-1 to A-3, they are unnecessarily roped in, and, it is according to him that there is no material allegations in the complaint to attract the ingredients of Section 498-A of IPC.

5. The learned Assistant Public Prosecutor for the State of Andhra Pradesh would strongly resist the request of the petitioners.

6. A perusal of the complaint allegations would show that there are material allegations making out a *prima facie* case so far as A-1 to A-3 are concerned, but so far as accused Nos.4 & 5 are concerned no concrete allegations have been finding place in the complaint in the direction of acts constituting the cruelty or harassment caused to the *de facto* complainant. What all alleged by the *de facto* complainant is when they all approached A4 & A5, who are the petitioners 3 and 4 herein, and informed as to the acts of cruelty meted out to the *de facto* complainant committed by A-1 to A-3 they alleged to have replied that the 1st accused behaved in that manner and if she inclines to stay with or otherwise to leave. Yet another allegation is that at a later stage when they, again, went to the aforesaid persons mentioned in the complaint, they alleged to have stated that she is not liked by A-1 and they would perform another marriage and if she intends they would give 30 cents of agricultural land.

7. Thus, the main allegations are only directed against A-1 to A-3. The allegations against A-4 and A-5, who are the petitioners 3 & 4 are concerned, do not make out a *prima facie* case of causing dowry harassment falling within the ambit of Section 498-A of IPC. This apart, it is clear that the petitioners 3 & 4/accused Nos.4 & 5 are not residing under the same roof and the petitioner No.3/accused No.4, being elder sister of the 1st accused, having been married the 4th petitioner/accused No.5 are residing in a different village called Kotta Muddapadu Village, P.C. Palli Mandal, Prakasam District, whereas

the petitioners 1 & 2/accused Nos.2 & 3 are residing at Chinnirlapadu Village, Kanigiri Mandal, Prakasam District, Andhra Pradesh State.

8. Even when the law declared by the Hon'ble Supreme Court in **Priyanka Srivatsava v. State of Uttar Pradesh**¹, certainly, the present petition has to be allowed as the investigation and prosecution against them would amount to the abuse of the process of law.

9. Hence, the Criminal Petition is partly allowed quashing the First Information Report in Crime No.120 of 2016 of Cherukupalli P.S., Guntur District so far as the petitioners 3 & 4, namely, Mula Venkata Lakshmi and Mula Venkateswara Reddy, who are arraigned as accused Nos.4 & 5 respectively, are concerned. But, so far as the petitioners 1 & 2, namely, Medam Srinivasa Reddy and Medam Thirupatamma, who are arraigned as accused Nos.2 & 3, who are the parents of the 1st accused – Medam Venkateswara Reddy, are concerned, there are *prima facie* allegations in the direction of attracting the offences alleged against them.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition shall stand closed.

A. SHANKAR NARAYANA, J

Dt. 24.04.2017
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¹ (2015) 6 SCC 287