

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.3279 OF 2017

ORDER:

This criminal petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in P.R.C.No.01 of 2017 on the file of VIII Additional Chief Metropolitan Magistrate at Nampally, Hyderabad, registered for the offences punishable under Sections 307 and 506 read with 34 of Indian Penal Code (for short "I.P.C.").

The said P.R.C.No.01 of 2017 is registered against accused Nos.1 to 8. The petitioners herein are accused Nos.1 to 7.

The main contention raised before this Court is that the respondent No.1 herein earlier filed another case for the offences punishable under Sections 498-A, 307, 324 and 506 read with 34 of I.P.C. and under Sections 3 and 4 of Dowry Prohibition Act. The present P.R.C.No.01 of 2017 and the earlier case are related to the offences committed on the same date of offence i.e. on 05.03.2014

The main allegation of the defacto complainant is that she was subjected to cruelty for her failure to meet the illegal demand of additional dowry and the petitioners are attempted to kill her on 05.03.2014.

When a case is registered on police report and charge sheet is filed by the police after completion of investigation, and taking cognizance of offence in complaint case, registered as P.R.C., the procedure to be followed is contemplated under Section 210 (2) of Cr.P.C.

Section 210 (2) of Cr.P.C. reads thus:

(2) If a report is made by the investigating police officer under section 173 and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report.

Therefore, by following the sub-section (2) of Section 210 of Cr.P.C., the Magistrate/Sessions Judge is required to try or enquire together both the cases filed on the basis of police report and complaint case. Filing of police report and complaint case does not amount to vexing the petitioners twice by applying the principle of double jeopardy; hence on that ground the proceedings cannot be quashed.

As two cases are pending viz. one case is filed on the basis of police report and the other is based on private complaint, the Magistrate concerned is directed to enquire both the cases together by following Section 210 (2) of Cr.P.C. and commit to Sessions Division if the offences are exclusively triable by Court of Sessions.

With the above direction, the petition is disposed of. No costs.

Consequently, miscellaneous petitions pending, if any, shall also stand dismissed.

JUSTICE M. SATYANARAYANA MURTHY

28.11.2017

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