

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL PETITION No.3270 OF 2017

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed requesting to quash the First Information Report in Crime No.17 of 2017 of Women Police Station, Adilabad.

2. Petitioners are arraigned as accused Nos.1 to 3 in the aforesaid crime. They alleged to have committed the offences punishable under Section 498A I.P.C. and Sections 3 and 4 of Dowry Prohibition Act.

3. Heard Sri M.D. Mohapatra, learned counsel for the petitioners, and learned Additional Public Prosecutor for the State of Telangana.

4. Learned counsel for the petitioners would make positive submissions contending that there were some differences between the spouses i.e., respondent No.2 - *de facto* complainant and her husband, who is petitioner No.1 herein, and finally, they resolved to break the marriage tie and in that context, they, along with their respective parents, executed a 'Khula Nama' before Qazi on 26.02.2017 and even a Certificate was issued by the Qazi on the same day, as regards dissolution of marriage, and despite the same, respondent No.2 lodged the present complaint on 22.03.2017, alleging dowry harassment. He

would also submit that all the allegations in the complaint are incorrect and false and, therefore, seeks to quash the First Information Report in the aforesaid crime.

5. Learned Additional Public Prosecutor would resist the request stating that the crime is under investigation.

6. It is true, photostat copy of the Khula (Divorce) and the Certificate of Khula Nama issued by Qazi, by name Khaja Mohiuddin, are filed. It is also no doubt true that, as submitted by the learned counsel for petitioners, the signature of father of petitioner No.1 does occur in the Khula (Divorce), but the question is, in the complaint allegations, the *de facto* complainant stated that during her matrimonial life, her husband and in-laws forcibly tied her to a chair and obtained signatures on blank bond papers, and in the night of 16.03.2017, they also alleged to have pressed her face with pillow with an intention to put an end to her life. In the presence of these allegations, at this stage, it is difficult to accede to the request of the learned counsel for petitioners to quash the First Information Report, for the reason the genuinity or otherwise of the 'Khula' and the Certificate issued by the Qazi is required to be resolved. In such an event, certainly, the power under Section 482 of the Code cannot be exercised, unless investigation is done and truth is unravelled.

7. However, the Investigating Officer is hereby directed to follow the procedure inlaid by the provisions of Section 41A of the

Code and also the guidelines laid down by the Honourable Supreme Court in **Arnesh Kumar v. State of Bihar and another**¹.

8. With the above direction to the Investigating Officer, the Criminal Petition is dismissed. Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

A.SHANKAR NARAYANA, J

April 21, 2017.
MD



¹2014 (8) SCC 273