

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

WRIT PETITION No.21341 of 2017

ORDER:

This petition is filed under Article 226 of the Constitution of India seeking to quash the proceedings against the petitioners/accused Nos.1 to 4 in Crime No.49 of 2017 on the file of Station House Officer, Women Police Station, Kakinada, East Godavari District, registered for the offences punishable under Sections 498-A and 506 read with 34 I.P.C., and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

2. The learned counsel for the petitioners submitted that the fourth respondent filed similar type of complaints before the Station House Officer, Visakhapatnam, on 02.9.2015 and Station House Officer, Ravulapalem, on 20.7.2016. He further submitted that the allegations made in the complaint do not constitute any offence much less the offences alleged to have been committed by the petitioners; therefore it is a fit case to quash the proceedings.

3. The learned Assistant Government Pleader submitted that the allegations made in the complaint, *prima facie*, constitute the offences alleged to have been committed by the petitioners.

4. A perusal of the record reveals that the petitioners are accused Nos.1 to 4 and the fourth respondent is the *de-facto* complainant in Crime No.49 of 2017. The marriage of the fourth respondent was performed with the first petitioner on 02.02.2006 at Krishnadevaraya Kalyana Mandapam, Ravulapalem, East Godavari District, as per Hindu rites and caste customs. Out of lawful wedlock, the first petitioner and the fourth respondent were

blessed with one daughter. A perusal of the record further reveals that the first petitioner and fourth respondent have filed D.O.P.No.41 of 2016, under Section 13-B of the Hindu Marriage Act, on the file of the Court of the Principal Senior Civil Judge, Kothapeta, East Godavari District. It also reveals that the first petitioner himself filed a memo before the trial Court that he is not pressing the petition.

5. As per the allegations made in the complaint, at the time of marriage, the parents of the fourth respondent gave Rs.8,00,000/- of cash and gold ornaments to the petitioners towards dowry. It is further alleged that the petitioners herein subjected the fourth respondent to cruelty physically and mentally for additional dowry.

6. At the time of arguments, learned counsel for the petitioners submitted that the first petitioner was released on bail.

7. While deciding the petition filed under Article 226 of the Constitution of India the Court has to take into consideration the allegations made in the complaint. The Court is not justified in embarking upon an enquiry to ascertain the truthfulness or otherwise of the allegations made in the complaint. The very purpose of investigation is to ascertain the truthfulness or otherwise of the allegations made in the complaint. Whether the petitioners have committed the offences alleged or not will come to light during the course of investigation. The allegations made in the complaint are *prima facie* sufficient to investigate into the matter.

8. Having regard to the facts and circumstances of the case on hand and also the principle laid down in **R.P.Kapoor v. State of Punjab**¹, **State of Haryana v. Bhajan Lal**², **V.Y.Jose v State of Gujarat**³ and **Teeja Devi v State of Rajasthan**⁴, I am of the considered view that it is not a fit case to quash the proceedings at this stage.

9. 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 Bihar**⁵, the Station House Officer, Women Police Station, Kakinada, East Godavari District, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C. in Crime No.49 of 2017 so far as petitioner Nos.2 to 4/accused Nos.2 to 4 are concerned.

10. With the above direction, this Writ Petition is disposed of. As a sequel, miscellaneous petitions, pending if any in this Writ Petition, shall stand closed.

T. SUNIL CHOWDARY, J

Date: 04.07.2017
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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