

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.6023 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C., to quash the proceedings against the petitioners-accused Nos.1 to 14 in Crime No.197 of 2017 on the file of the Station House Officer, Gajwel Police Station, registered for the offences punishable under Section 498-A of IPC and Sections 3 and 4 of Dowry Prohibition Act.

2. Learned counsel for the petitioners strenuously submitted that the second respondent on coming to know about pronouncement of Talaq, lodged the false complaint to harass the petitioners. He further submitted that the second respondent filed the complaint by suppressing the factum of issuance of legal notice to her on 07.6.2017. He also 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, in view of divorce certificate issued by Telangana State Wakf Board on 28.6.2017. ***Per contra***, learned Assistant Public Prosecutor submitted that the alleged acts relate to prior to the date of pronouncement of Talaq. He further submitted that the allegations made in the complaint *prima facie* constitute the offences alleged to have been committed by the petitioners; hence, this is not a fit case to quash the proceedings.

3. A perusal of the record reveals that the petitioners are accused Nos.1 to 14 and second respondent is the *de facto* complainant. The record further reveals that the marriage of the second respondent was performed with petitioner No.1 on

19.2.2015 at Gajwel as per Muslim rites and caste customs. Immediately after the marriage, the second respondent joined petitioner No.1 to lead marital life. As per the allegations made in the complaint, at the time of the marriage, the parents of the second respondent gave Rs.8,00,000/- cash, eight tulas of gold, twenty grams of silver and household articles worth Rs.50,000/- to the petitioners towards dowry. It is further alleged that the petitioners subjected the second respondent to cruelty for additional dowry. This is not the stage to go into the merits of the main case.

4. While deciding the petitions under Section 482 Cr.P.C., the court has to take into consideration the allegations made in the complaint only. The Court is not justified in embarking upon an enquiry as to probability, reliability or genuineness of the allegations made in the complaint at the initial stage of investigation. Whether the petitioners have committed the alleged offences or not will come to light during the course of investigation. The material placed before the Court is *prima facie* sufficient to investigate into the matter in order to ascertain the truthfulness or otherwise of the allegations made in the complaint.

5. Having regard to the facts and circumstances of the case and also the principle enunciated in **R.P.Kapoor v. State of Punjab**¹, **State of Haryana v. Bhajan Lal**², **V.Y.Jose v. State of Gurajat**³ and

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

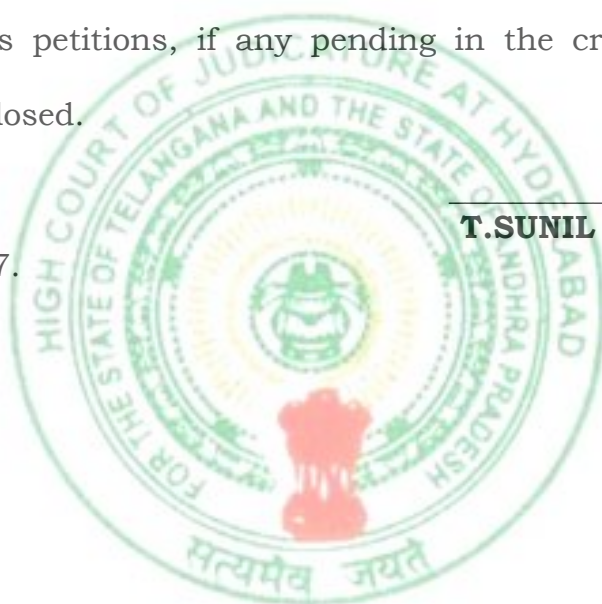
Teeja Devi v. State of Rajasthan⁴, I am of the considered view that it is not a fit case to quash the criminal proceedings at the threshold.

6. 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, Gajwel Police Station, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C., in Crime No.197 of 2017 so far as the petitioners-accused Nos.1 to 14 are concerned.

7. With the above direction, the criminal petition is disposed of. Miscellaneous petitions, if any pending in the criminal petition, shall stand closed.

July 21, 2017.
YS

T.SUNIL CHOWDARY, J



⁴ 2015 (1) ACR 564 (SC)

⁵ 5 (2014) 8 SCC 273