

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5434 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C., to quash the proceedings against the petitioners-accused Nos.2 to 5 in Crime No.67 of 2017 on the file of the Station House Officer, Women Police Station, S.P.S.R. Nellore, registered for the offences under Section 498-A read with 34 IPC and Sections 3 and 4 of Dowry Prohibition Act.

2. Learned counsel for the petitioners submitted that the second respondent foisted a false case against the petitioners in order to take vengeance against accused No.1. The allegations made in the complaint do not constitute any offence much less the offences alleged to have been committed by the petitioners. ***Per contra***, learned Assistant Public Prosecutor submitted that the allegations made in the complaint are *prima facie* sufficient to investigate into the matter.

3. A perusal of the record reveals that the petitioners are accused Nos.2 to 5 and the second respondent is the *de facto* complainant. The marriage of the second respondent was performed with accused No.1 on 09.10.2011 at Tiruchanur (Tirupathi) as per Hindu rites and caste customs. Immediately after the marriage, the second respondent joined accused No.1 to lead marital life. Out of lawful wedlock, the second respondent and accused No.1 were blessed with a daughter. The second respondent and accused No.1 stayed together in United States of America for some time. A perusal of the record reveals that the

parties have exchanged the legal notices. As per the allegations made in the complaint, at the time of the marriage, the parents of second respondent gave Rs.5,00,000/- cash, fifty sovereigns of gold and other valuable articles to accused No.1 towards dowry. The petitioners and accused No.1 harassed the second respondent physically and mentally for additional dowry and on the ground that she has not given birth to a male child. Unable to bear the harassment, the second respondent was forced to come to India in the year 2016.

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 second respondent has foisted a false case or not will come in 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 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 criminal proceedings at the threshold.

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

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, Women Police Station, S.P.S.R. Nellore, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C., in Crime No.67 of 2017 so far as the petitioners-accused Nos.2 to 5 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 10, 2017.
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T.SUNIL CHOWDARY, J



⁵ 5 (2014) 8 SCC 273