

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.2223 OF 2017

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code'), is filed requesting to quash the First Information Report in Crime No.163 of 2017 of Narsingi Police Station, Cyberabad, which was registered basing on a complaint lodged by respondent No.1 – *de facto* complainant, who is no other than the wife of petitioner - accused.

2. The petitioner alleged to have committed the offences punishable under Sections 354D and 506 I.P.C.

3. Heard Sri D. Purna Chandra Reddy, learned counsel for the petitioner, and learned Assistant Public Prosecutor for the State of Telangana.

4. Learned counsel for the petitioner would submit that the petitioner belongs to Scheduled Caste, whereas respondent No.1 belonging to Backward Class community, placed higher in pedestal in the community system, and, though, their marriage was a love marriage agreed by the parents of both sides, still, respondent No.1 being instigated by her relations that she had married a person belonging to lower Caste, started lodging complaints against the petitioner, only with a view to get rid of him by obtaining divorce. It is according to the learned counsel that, in fact, respondent No.1 has

filed a divorce petition and earlier she has also filed a complaint against the petitioner levelling offences punishable under Sections 498A, 323 and 506 I.P.C. and Section 3 of Dowry Prohibition Act, which was registered as Crime No.56 of 2016 of Narsingi Police Station and on taking cognizance, the same was numbered as C.C.No.388 of 2016 on the file of XXIII Metropolitan Magistrate, Rajendranagar, whereas, the petitioner has filed a petition, under Section 9 of the Hindu Marriage Act, registered as O.P.No.1065 of 2016 on the file of Family Court, City Civil Court, Hyderabad, requesting to grant decree for restitution of conjugal rights and thus, the present complaint is nothing but yet another attempt to harass the petitioner, so that he would accede to her request for divorce, and there are no allegations in the complaint, that would make out the offences alleged against the petitioner in the present First Information Report.

5. Learned Additional Public Prosecutor would resist the request stating that serious allegations are levelled in the complaint, which cannot be ignored, and the case is at crime stage and investigation is yet to be done.

6. It is true, the cases filed by the respective parties cannot be denied by either party, but the question is whether the allegations in the present complaint are baseless and intended only to harass the petitioner further or otherwise. A tentative finding thereon can only be arrived at when probe is done by the Investigating Officer and it is not

a case where the proceedings in the present First Information Report can be quashed at the threshold, more particularly, when the complaint contains the averments that the petitioner has been sending messages through whats app to the friends and relatives of respondent No.1 - *de facto* complainant and on account of the said messages, she has been misunderstood by them and thus, she has been put to harassment. Further, she has also given mobile numbers of the petitioner at the bottom of the complaint.

7. At this stage, learned counsel for the petitioner confines the request to direct the police to follow the procedure prescribed under Section 41A of the Code, since the offences alleged against the petitioner are punishable with imprisonment less than seven years or which may extend to seven years.

8. The request appears to be reasonable to the extent of directing the Investigating Officer to follow the procedure inlaid in Section 41A of the Code.

9. Thus, while dismissing the Criminal Petition, the Investigating Officer is directed to follow the procedure inlaid in Section 41A of the Code. Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

A. SHANKAR NARAYANA, J

March 20, 2017.
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