

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL PETITION No.2094 of 2017

ORDER:

The present petition, under Section 482 of the Code of Criminal Procedure (for short, 'the Code'), is filed requesting to quash the proceedings in C.C.No.196 of 2014 on the file of IX Metropolitan Magistrate, Kukatpally at Miyapur, Cyberabad.

The petitioners are arraigned as accused Nos.2 and 3 in the aforesaid Calender Case on the complaint of respondent No.1, who is no other than their daughter-in-law.

In fact, accused No.1, who is the husband of respondent No.1/*de facto* complainant, is not a party to the present petition. The accused alleged to have committed the offences punishable under Section 498-A IPC and Sections 4 and 5 of the Dowry Prohibition Act.

Heard Sri M.A.K.Mukheed, learned counsel for the petitioners, and the learned Additional Public Prosecutor for the State of Telangana on behalf of respondent No.2.

Learned counsel for the petitioners would submit that neither the complaint nor the statements recorded under Section 161 of the Code would specifically point out the complicity of the petitioners in the commission of offences alleged against them and there are omnibus allegations against the petitioners joining with accused No.1 wherever contextual reference was made and, therefore, seeks to quash the proceedings against the petitioners. It is also his submission that the

petitioners are sufficiently aged being 75 and 65 years old, respectively, and it is difficult for them to attend the Court and the Calender Case has been pending for about three years.

Learned Additional Public Prosecutor for the State of Telangana would strongly resist the request of learned counsel for the petitioners.

From a perusal of the complaint and the statements recorded under Section 161 of the Code, it cannot be said that there are no allegations touching the complicity of the petitioners in the commission of the offences alleged against them. No doubt, wherever the acts of accused No.1 are referred to in the complaint as well as 161 Cr.P.C statements, reference to the petitioners is also made. Certainly, at this stage, it cannot be said that proceeding with the trial would amount to abuse of process of law, as sought to be viewed by the learned counsel for the petitioners. The petition is, therefore, liable to be dismissed.

Accordingly, the Criminal Petition is dismissed. However, keeping in view the fact that the petitioners are sufficiently old and petitioner No.1 is a retired employee, their presence is exempted during trial of the Calender Case, but they are directed to appear before the learned Magistrate on the date of examination under Section 239 of the Code, if it is not yet done, and when the case reaches the stage of examination under Section 313 Cr.P.C and also on all other occasions as and when the learned Magistrate directs them to appear, if their presence is absolutely necessary.

Miscellaneous applications, if any, pending in the present petition stand closed.

JUSTICE A.SHANKAR NARAYANA

15.03.2017
v v

