

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1758 OF 2017

ORDER:

Requesting to quash the First Information Report in Crime No. 8 of 2017 of Pullampet P.S., YSR Kadapa District, the present petition is filed under Section 482 of the Criminal Procedure Code, 1973 (for short, 'the Code').

2. The petitioners herein are arraigned as accused Nos. 1 & 2 respectively, in the aforesaid Crime. They are son and father respectively. The 2nd respondent/*de facto* complainant lodged a complaint against them alleging the offences punishable under Sections 498-A of IPC and Sections 3 & 4 of Dowry Prohibition Act.

3. Heard Sri Ch. Janardhan Reddy, the learned counsel for the petitioners and the learned Assistant Public Prosecutor for the State of Andhra Pradesh.

4. While pleading innocence and false implication of the petitioners in the present crime, the learned counsel for the petitioners would submit that, *ex facie*, the complaint reflects that the allegations are concocted to harass the petitioners. He supports the said submission by assigning two reasons; first is in the very complaint, the *de facto* complainant has got mentioned that she was sent out just a day before previous to "Vinayaka Chavithi" festival and the very fact that the complaint was filed on 8.2.2017 is sufficient to view that

it is only directed to harass the petitioners mainly on the ground that the 1st petitioner has filed Marriage O.P. No.72 of 2016 on the file of Senior Civil Judge, Rajampet, under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights.

5. Second submission is only after Marriage O.P. No.72 of 2016 was filed, the complainant has come up with the present complaint. Yet another submission made by him is that the 1st petitioner got issued a notice on 25.8.2016 to the *de facto* complainant alleging that she left his society without informing anything just two days after their marriage and reply was only given on 8.2.2017. Thus, it is his submission that the complaint is nothing but an attempt to harass the petitioners, and sought to quash the First Information Report.

6. The learned Assistant Public Prosecutor for the State of Andhra Pradesh strongly resists the request. It is according to him, that there have been sustainable allegations in the complaint making out a *prima facie* case as to the commission of cognizable offences, and, therefore, to dismiss the petition.

7. Perused the complaint averments and the Notice got issued by the 1st petitioner, dated 25.8.2016, and the complaint given to the police on 8.2.2017 and the allegations in Marriage O.P. No.72 of 2016.

8. The submissions made by the learned counsel would relate to appreciation of evidence, which cannot be resorted to at this stage, as the allegations in the complaint are to be tested by the investigating agency and also the allegations in the Marriage O.P. No.72 of 2016, and so also the allegations in the Notice got issued by the 1st petitioner. These all would account for the disputed questions of fact, which, this Court cannot embark upon by holding a roving enquiry. *Suffice* it to say that the complaint lodged by the *de facto* complainant would reflect *prima facie* allegations as to commission of the offences alleged against the petitioners.

9. Therefore, the Criminal Petition is dismissed.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition shall stand closed.

Date:05.06.2017
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A. SHANKAR NARAYANA, J