

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.6493 of 2017

ORDER:

Heard learned counsel for the petitioners/accused Nos.2 to 6 among the 6 accused of crime No.128 of 2017 of Vinukonda Town Police Station, Guntur District, for the offences punishable under Section 498-A IPC and Sections 3 & 4 of Dowry Prohibition Act and also learned Public Prosecutor representing 1st respondent-State and before ordering notice to the 2nd respondent-defacto complainant to the quash petition.

The petitioners are seeking to quash the proceedings of the FIR supra. A perusal of the FIR shows from the ingredients and the crime is very recently registered and it is at the nasal stage, for there is nothing to quash the FIR or to interdict the investigation, leave about the petitioners' stated already availed concession of anticipatory bail.

In fact, the latest two Judge Bench expression of the Apex Court dated 27.07.2017 in CrI.A.1265 of 2017 (SLP (CrI.) No.2013 of 2017 in **Rajesh Sharma & Others Vs. State of U.P. & Another**), particularly from Para 19 given several guidelines in relation to the offence under Section 498-A IPC, including constitution of Family Welfare Committees by the District Legal Services Authorities preferably comprising of three members (from para legal volunteers/social workers/retired persons/wives of working officers or other citizens, if any) and to review the functioning of such Committees once in a year by the District and Sessions Judge of the District-cum-Chairman, District Legal

Services Authority, that the members cannot be called as witnesses during trial; that whenever a complaint under Section 498-A IPC is received by police or the Magistrate to refer the same to such Committee for interaction with the parties personally or by telephone or other mode of communication including by electronic communication and to give a brief report on factual aspects, within one month of its receiving, to the authority who referred the complaint and till such committee's report is received, no arrest should normally be effected by the police and after considering the report by the investigation officer or the Magistrate on own merits for proceeding further and the members of the Committee must be given basic minimum training by the Legal Services Authority from time to time and they are entitled to honorarium out of the funds of the Legal Services Authority and the police officers to investigate such cases area wise shall be designated by the Government within one month from the date of the judgment, who shall be given appropriate training of at least one week; that in cases where settlement is reached, it will be open to the District and Sessions Judge or any other senior Judicial Officer nominated by him in the District to dispose of the proceedings including closing of the criminal case if dispute primarily relates to matrimonial discord. If bail application is filed with one clear day's notice to the Public Prosecutor/complainant, same may be disposed of as far as possible on the same day and recovery of disputed dowry items may not by itself be a ground for denial of bail, if maintenance or other rights of the wife/minor children can otherwise be protected and in dealing with bail matters, individual roles, prima facie

truth of the allegations, requirement of further arrest or custody and interest of justice must be carefully weighed and in case of those persons residing out of India impounding of passports or issuance of red corner notice should not be a routine. It will be open to the District Judge or designated senior judicial officer nominated by the District Judge to club all connected cases between the parties arising out of matrimonial disputes so that a holistic view can be taken by the Court to whom all such cases are entrusted and personal appearance of all family members and particularly outstation members may not be required and the trial Court ought to grant exemption from personal appearance or permit appearance by video conferencing without adversely affecting progress of the trial and these directions will not apply to the offences involving tangible physical injuries or death. It is also directed after constitution of such Committees and observing for 6 months working by 31.03.2018, the National Legal Services Authority may give report about need for any change in the direction or to give further directions and copies of the order are directed to be sent to National Legal Services Authority, Director General of Police of all States and the Registrars of all the High Courts for further appropriate action.

Having regard to the above, though there is nothing at the threshold to quash the proceedings in view of the directions of the Apex Court, the matter to be considered by the Committee to be constituted and on submission of the report. Needless to say where the offences involved are under Section 498-A IPC and Sections 3 & 4 of Dowry Prohibition Act (unless there are injuries by physical assault under Sections 323 to 326 or 307 IPC or the

like), there shall be no arrest by police unless report of the Committee on its constitution received and that does not prevent securing for interrogation as part of investigation.

Accordingly and in the result, the Criminal Petition is disposed of by directing the Registry to mark copy of the same with the copy of the judgment of the Apex Court to the Registrar General and the Secretaries of the Legal Services Authority of both the States for taking further steps necessary pursuant to the Apex Court judgment.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

Date: 31.07.2017
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JUSTICE Dr. B.SIVA SANKARA RAO

