

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.2714 OF 2017

ORDER:

The present petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code'), is filed by the husband and parents-in-law of the 2nd respondent/*de facto* complainant, requesting to quash the First Information Report in Crime No.35 of 2017 of Women Police Station, Visakhapatnam District.

The petitioners alleged to have committed the offences punishable under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act. Of course, the present complaint is a private complaint given by the 2nd respondent before the concerned Magistrate, who, thereafter, referred it to the concerned police under Section 156 (3) of the Code.

Heard Sri Sravan Kumar Naidana, learned counsel for the petitioners, and the learned Additional Public Prosecutor for the State of Andhra Pradesh on behalf of the 1st respondent.

Having tendered elaborate arguments pointing out that the marriage of the *de facto* complainant with the 1st petitioner is the 1st marriage to the 1st petitioner, but it is the 2nd marriage to the *de facto* complainant, as she was a divorcee, the learned counsel for the petitioners would submit that since the brother of the *de facto* complainant borrowed Rs.10,00,000/- from the 2nd petitioner, a notice

was given for repayment of the said amount, a copy of which is also filed in the material papers, and the 2nd respondent, therefore, filed the present complaint.

Since the request of the petitioners is only to quash the First Information Report, what is required to be considered is whether the complaint, *ex facie*, would not contain *prima facie* allegations in the direction of showing complicity of the petitioners in the commission of the offences alleged against them?

A perusal of the complaint would clearly indicate that there are allegations attracting the offences punishable under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act against the petitioners. Therefore, it cannot be said that there is no *prima facie* material as to the complicity of the petitioners in the commission of the offences alleged against them.

Learned counsel for the petitioner would urge that a direction be given to the Investigating Officer to follow the procedure inlaid by the provisions of Section 41A of the Code.

It is true the statute itself provides an opportunity to the petitioners requiring the Investigating Officer to follow the procedure prescribed under Section 41A of the Code, besides the decisional law in **Arnesh Kumar v. State of Bihar**¹, wherein the Hon'ble Supreme

¹ (2014) 8 SCC 273

Court has issued certain guidelines to the Investigating Officer. Therefore, the Investigating Officer is directed to follow the procedure under Section 41A of the Code as well the guidelines laid down by the Hon'ble Supreme Court in the decision referred to above.

Accordingly, the Criminal Petition is disposed of at the stage of admission itself.

Miscellaneous Petitions, if any, pending in this petition, stand closed.

April 4, 2017
v v

A. SHANKAR NARAYANA, J

