

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.2217 OF 2017

ORDER:

This criminal petition, under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to grant pre-arrest bail to the petitioner/ A.1 apprehending his arrest in connection with Crime No.423 of 2017 of Rajendranagar Police Station, Rajendranagar, Cyberabad, Hyderabad, registered for the offences punishable under Sections 498-A of the Indian Penal Code, 1860 (for short 'I.P.C.') and Sections 3 and 4 of Dowry Prohibition Act, 1961. (for short, 'the Act 1961').

The case of the prosecution, in brief, is that the *de facto* complainant by name Kurva Mounika lodged a complaint with the SHO, Rajendranagar Police Station, alleging that her marriage was performed with the petitioner long back. At the time of marriage, her parents have presented 25 tulas of gold, Rs.5 lakhs cash, open plot admeasuring 210 square yards and Rs.50,000/- cash towards adapadhuchu lanchanam and also other household articles. Thereafter they lived happily for some time and blessed with son named as Nagesh. After giving birth to the male child, the petitioner used to pick up quarrel for petty things, started demanding additional dowry and subjected to cruelty for her failure to meet the illegal demand of dowry. Based on such allegations made in the complaint, the police registered the above crime and issued F.I.R.

The main contention of the petitioner is that the *de facto* complainant herself subjecting him to cruelty and he lodged a

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complaint against the *de facto* complainant on 22.02.2017 and produced a copy of the complaint and the receipt issued by the police concerned. In the complaint, the petitioner complained that the *de facto* complainant harassing him and his parents and requested her to live with him. The petitioner further contended that as a counter blast she lodged the present complaint.

Whereas the learned Public Prosecutor for the State of Telangana contended that in view of specific allegation made in the complaint, the petitioner cannot be enlarged on bail and that apart no action was taken on the complaint lodged by the petitioner as there is no truth in the allegations. Therefore, the petitioner lodged complaint in anticipation of the complaint by the *de facto* complainant and prayed to dismiss the criminal petition.

As seen from the allegations made in the complaint and the material collected by the investigating agency, the marriage between the petitioner and the *de facto* complainant was performed on 12.10.2011 and it is alleged that at the time of marriage, the parents of the *de facto* complainant have presented 25 tulas of gold, Rs.5 lakhs cash, open plot admeasuring 210 square yards. Such presentation of amount and open plot would fall within the definition of Section 2 of the Act, 1961 and it is an offence under Section 3 of the Act, 1961, *prima facie*, subject to its proof during trial. Moreover the demand of dowry and subjecting to cruelty for failure to meet the illegal demand would also attracts the offence under Section 3 of the Act, 1961, so also the offence punishable under Section 498-A of I.P.C. Thus the allegations made in the complaint would constitute an offence, *prima facie*.

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It is the contention of the learned counsel for the petitioner that this complaint is counter blast to the complaint lodged by the petitioner dated 22.02.2017. Whereas the learned Public Prosecutor for the State of Telangana contended that the petitioner lodged a complaint in anticipation of the complaint lodged by the *de facto* complainant. However, the police did not register the crime based on the complaint lodged by the petitioner, whereas the complaint lodged by the *de facto* complaint was registered. The reasons may be falsity in the allegations made in the complaint lodged by the petitioner or otherwise. But, at this stage, it is difficult to conclude that the present complaint is a counter blast to the complaint lodged by the petitioner dated 22.02.2017.

Taking into consideration, the facts and circumstances of the case, I find satisfactory material to conclude that the petitioner did commit an offence punishable under Section 498-A of I.P.C. and Sections 3 and 4 of Dowry Prohibition Act. At this stage, I cannot exercise my discretion to grant pre-arrest bail, since it is purely discretionary. Therefore, the criminal petition deserves to be dismissed.

In the result, the criminal petition is dismissed.

M.SATYANARAYANA MURTHY, J

22.03.2017
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