

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1742 of 2017

ORDER:

The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') requesting to quash the First Information Report in Crime No.23 of 2017 of Nagayalanka Police Station, Krishna District.

2. The petitioners are arraigned as accused Nos.1 and 2 and they alleged to have committed the offences punishable under Sections 498-A and 323 of the Indian Penal Code, 1860 (IPC) and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

3. Heard Sri A. Sameer Kumar, learned counsel for the petitioners and learned Additional Public Prosecutor for the State of Andhra Pradesh.

4. Learned counsel for the petitioners would submit that in fact the marriage between the 1st petitioner and the 2nd respondent-*de facto* complainant took place in 2006 and out of their wedlock, two children were born, who are aged 9 and 7 years respectively, and at the time of marriage, the 1st petitioner was doing a private job and subsequently he could secure Executive Officer's post in Housing Development Finance Corporation Bank (HDFC) and since the 2nd petitioner was affected with paralytic stroke and unable to move, the 2nd respondent, only with a view to evade the responsibility to look after her, invented the allegations in the complaint and went to the extent of levelling the

serious allegation of demand of additional dowry of Rs.2,00,000/-, and, therefore, sought to quash the proceedings.

5. Learned Additional Public Prosecutor would resist the request.

6. The present stage is that the Investigating Officer has taken up investigation having registered the complaint. So, what all available in the complaint alone can be looked into, as no other material is forthcoming in the present case. The allegations in the complaint would prima facie support the complicity of the petitioners. Therefore, it is not a fit case where the allegations can be construed amounting to abuse of process of law and, therefore, the complaint is liable to be dismissed.

7. Accordingly, the criminal petition is dismissed at the admission stage itself.

8. Learned counsel for the petitioners would submit that the 2nd petitioner is, in fact, unable to move on account of paralytic stroke, and, therefore, seeks to direct the Investigating Officer to resort to the procedure inlaid by the provisions of Section 41-A of the Cr.P.C.

9. It is needless to mention that the law declared by the Hon'ble Supreme Court in **Arnesh Kumar v. State of Bihar**¹ would govern the present fact situation, and, therefore, the Investigating Officer is directed to resort to Section 41-A of the Cr.P.C. as well as the guidelines laid down by the Hon'ble Supreme Court in Arnesh Kumar's case (supra).

¹ (2014) 8 SCC 273

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

A. SHANKAR NARAYANA, J

March 7 2017.

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