

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CRIMINAL PETITION No.4164 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner-accused No.5 in Crime No.66 of 2017 on the file of the Station House Officer, Nellore I Town Police Station, SPSR Nellore District, registered for the offences punishable under Sections 307 and 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act.

2. The learned counsel for the petitioner submitted that the petitioner has nothing to do with the family affairs of the other accused. She further submitted that the allegations made in the complaint do not constitute the offences, much less the offences punishable under Sections 307 and 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act. *Per contra*, learned Assistant Public Prosecutor submitted that the allegations made in the complaint are *prima facie* sufficient to investigate into the matter, therefore, it is not a fit case to quash the proceedings at this stage.

3. A perusal of the record reveals that the petitioner is accused No.5 and the 2nd respondent is *de facto* complainant in Crime No.66 of 2017. The record further reveals that the marriage of the 2nd respondent was performed with accused No.1 on 25.02.2016. As per the allegations made in the complaint, the petitioner herein along with other accused subjected the 2nd respondent to cruelty for additional

dowry. It is further alleged that the petitioner herein along with other accused made an attempt to kill the 2nd respondent.

4. At the time of hearing, learned counsel for the petitioner submitted that the police deleted Section 307 IPC and added Section 506 IPC. The learned Assistant Public Prosecutor submitted that the section of law was altered to 506 IPC.

5. While exercising the inherent power under Section 482 Cr.P.C., the Court has to take into consideration the allegations made in the complaint only. The Court is not justified in embarking upon an enquiry as to probability, reliability or genuineness of the allegations made in the complaint at the initial stage of investigation. Whether the petitioner has committed the alleged offences or not will come to light during the course of investigation. The material placed before the Court is *prima facie* sufficient to investigate into the matter in order to ascertain the truthfulness or otherwise of the allegations made in the complaint.

6. Having regard to the facts and circumstances of the case and also the principle enunciated in **R.P.Kapoor v. State of Punjab**¹, **State of Haryana v. Bhajan Lal**², **V.Y.Jose v. State of Gurajat**³ and **Teeja Devi v. State of Rajasthan**⁴, I am of the considered view that it is not a fit case to quash the criminal proceedings at the threshold.

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

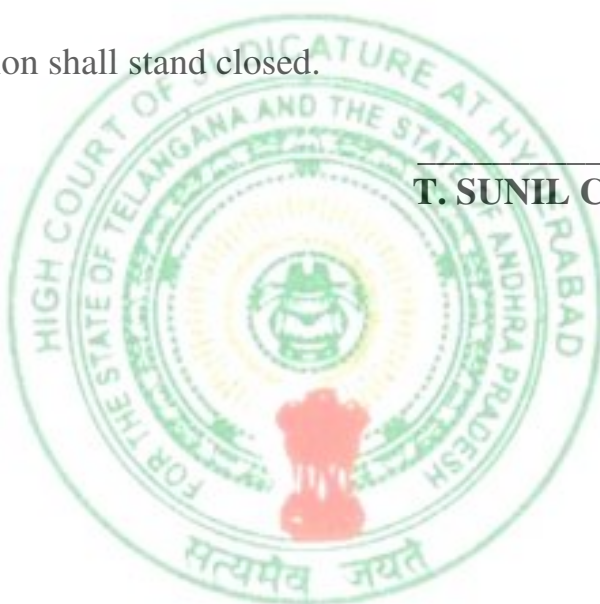
7. Taking into consideration the facts and circumstances of the case and also the principle enunciated by the Supreme Court in **Arnesh Kumar v. State of Bihar**⁵, the Station House Officer, Nellore I Town Police Station, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C., in Crime No.66 of 2017 so far as the petitioner/accused No.5 is concerned.

8. With the above direction, the criminal petition is disposed of. Consequently, Miscellaneous Petitions, if any, pending in this criminal petition shall stand closed.

9th June 2017.

mar

T. SUNIL CHOWDARY, J



⁵ (2014) 8 SCC 273