

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.3182 OF 2017

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code'), is filed requesting to quash the First Information Report in Crime No.6 of 2017 of Women Police Station, Vishakhapatnam City.

2. Petitioners, who are husband and wife and arraigned as accused Nos.4 and 9 in the aforesaid crime, along with other accused, alleged to have committed the offences punishable under Sections 498A and 506 I.P.C. and Sections 3 and 4 of Dowry Prohibition Act.

3. Heard Sri R. Siva Sai Swaroop, learned counsel for the petitioners, and learned Additional Public Prosecutor for the State of Andhra Pradesh.

4. Learned counsel for petitioners would submit that except reference to petitioner No.1 in the complaint, nothing is attributed in the direction of showing complicity of the petitioners in the commission of the alleged offences. His further submission is that, in fact, accused No.1, who is the husband of respondent No.2 – *de facto* complainant, filed O.P.No.1133 of 2016 on the file of Judge, Family Court, Vishakapatnam, for dissolution of marriage and thereafter, respondent No.2 filed O.P.No.1269 of 2016 on the file of very same Court, under Section 9 of the Hindu Marriage Act, for restitution of

conjugal rights, but there is no whisper in the said O.Ps. as to the petitioners and even in the order, dated 12.04.2017, in Crl.P.No.2823 of 2017, where the petitioners requested for grant of anticipatory bail, this Court, in paragraph No.5 has observed that except making a bald allegation, no material is brought on record to connect the petitioners with the offences punishable under Sections 498A and 506 I.P.C. and Sections 3 and 4 Dowry Prohibition Act. He places reliance on the decision of the Honourable Supreme Court in **Geeta Mehrotra and another v. State of Uttar Pradesh and another**¹ and, therefore, seeks to quash the First Information Report in the aforesaid crime.

5. Irrespective of the observations made by this Court while granting anticipatory bail to the petitioners, the complaint requires examination independently, in the direction of looking at whether any *prima facie* allegations are occurring against the petitioners. Learned counsel for the petitioners drawn the attention of this Court to the reference made in the complaint, a copy of which is filed today in the Court, that petitioner No.1 came to the *de facto* complainant's house during vacation, as he is working in Indian Air Force stationed at the state of Punjab, and only sticks to that portion, without referring to the continuation thereof. When looked at the allegation, which is continued thereafter, the complainant has alleged that petitioner No.2 along with her elder co-sister viz., Venkata Lakshmi, sister-in-law viz., Sarika Vara Lakshmi and husband of her sister-in-law viz., Appa

¹ 2013 AIR SC 181

Rao, having conspired together, at about 07:00 PM entered into the first floor of the house where she was staying along with her child and all the three women separated the child from her perforce and taken away the child and thereafter, petitioner No.1 and three others attacked her, beat her and threatened her that they would see her end and asked her to approach whomever she wants.

6. In the presence of such serious allegations in the complaint and, since, the present Criminal Petition is filed only to quash the First Information Report, certainly, it cannot be said that investigation into the crime would amount to the abuse of process of law. There is no merit in the present Criminal Petition.

7. Accordingly, the present Criminal Petition is dismissed. Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

A. SHANKAR NARAYANA, J

April 25, 2017.
MD