

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.8504 of 2017

ORDER:

In this petition filed under Section 482 Cr.P.C, petitioners/A2 to A5 seek to quash the proceedings against them in Crime No. 280 of 2017 of Arundalpet Police Station, Guntur Urban, which was registered against them and A1 for the offences under Sections 498-A, 420, 406 & 307 read with 34 IPC and Sections 3 & 4 of Dowry Prohibition Act.

When the matter came up for hearing, learned counsel for petitioners Sri Ashok Goud Ponnampalli, would submit that at this stage he is not seeking for quashment of proceedings but wish to bring to the notice of the Court about the judgment of the Apex Court reported in *Rajesh Sharma vs. State of U.P*¹, wherein certain guidelines were issued to deal with the procedure to be followed in respect of the offence registered under Section 498-A and other allied offences. His submission is that as per those guidelines whenever a complaint is lodged under Section 498-A, the same has to be referred to the Family Welfare Committee for submission of its report. Learned counsel would submit that this judgment is pronounced recently by the Apex Court and therefore, the present case may also be directed to be referred to the Family Welfare Committee to deal with the same in terms of the judgment.

Learned Additional Public Prosecutor admitted about the passing of the judgment and left to the discretion of the Court.

A perusal of the judgment in *Rajesh Sharma vs. State of U.P* (supra) would show that the Apex Court was engaged with the aspect whether any directions were

¹ 2017 (2) ALT (CrI.) 393 (SC)

called for to prevent the misuse of Section 498-A. On an elaborate discussion, the Apex Court opined that certain remedial steps need to be taken, in view of:

- (i) Uncalled for implication of husband and his relatives and arrest.
- (ii) Continuation of proceedings in spite of settlement between the parties since the offence is non-compoundable and uncalled for hardship to parties on that account.

To remedy the situation, the Apex Court was of the view that involvement of civil society in the aid of administration of justice can be one of the steps, apart from the investigating officers and the concerned trial courts being sensitized. The Court further opined that it was necessary to facilitate closure of proceedings where a genuine settlement has been reached instead of parties being required to move High Court only for that purpose.

Thus at the end, the Apex Court has issued the following directions:

i) (a) In every district one or more **Family Welfare Committees** be constituted by the District Legal Services Authorities preferably comprising of three members. The constitution and working of such committees may be reviewed from time to time and at least once in a year by the District and Sessions Judge of the district who is also the Chairman of the District Legal Services Authority.

(b) The Committees may be constituted out of para legal volunteers/social workers/retired persons/wives of working officers/other citizens who may be found suitable and willing.

(c) The Committee members will not be called as witnesses.

(d) Every complaint under [Section 498A](#) received by the police or the Magistrate be referred to and looked into by such committee. Such committee may have interaction with the parties personally or by means of telephone or any other mode of communication including electronic communication.

(e) Report of such committee be given to the Authority by whom the complaint is referred to it latest within one month from the date of receipt of complaint.

(f) The committee may give its brief report about the factual aspects and its opinion in the matter.

(g) Till report of the committee is received, no arrest should normally be effected.

(h) The report may be then considered by the Investigating Officer or the Magistrate on its own merit.

(i) Members of the committee may be given such basic minimum training as may be considered necessary by the Legal Services Authority from time to time.

(j) The Members of the committee may be given such honorarium as may be considered viable.

(k) It will be open to the District and Sessions Judge to utilize the cost fund wherever considered necessary and proper.

ii) Complaints under [Section 498A](#) and other connected offences may be investigated only by a designated Investigating Officer of the area. Such designations may be made within one month from today. Such designated officer may be required to undergo training for such duration (not less than one week) as may be considered appropriate. The training may be completed within four months from today;

iii) In cases where a settlement is reached, it will be open to the District and Sessions Judge or any other senior Judicial Officer nominated by him in the district to dispose of the proceedings including closing of the criminal case if dispute primarily relates to matrimonial discord;

iv) If a bail application is filed with at least one clear day's notice to the Public Prosecutor/complainant, the same may be decided as far as possible on the same day. Recovery of disputed dowry items may not by itself be a ground for denial of bail if maintenance or other rights of wife/minor children can otherwise be protected. Needless to say that in dealing with bail matters, individual roles, prima facie truth of the allegations, requirement of further arrest/ custody and interest of justice must be carefully weighed;

v) In respect of persons ordinarily residing out of India impounding of passports or issuance of Red Corner Notice should not be a routine;

vi) It will be open to the District Judge or a designated senior judicial officer nominated by the District Judge to club all connected cases between the parties arising out of matrimonial disputes so that a holistic view is taken by the Court to whom all such cases are entrusted; and

vii) Personal appearance of all family members and particularly outstation members may not be required and the trial court ought to grant exemption from personal appearance or permit appearance by video conferencing without adversely affecting progress of the trial.

viii) These directions will not apply to the offences involving tangible physical injuries or death.

The Apex Court concluded that after seeing the working of the arrangement proposed by it for a period of six months, the National Legal Services Authority may give a report about need for charges in the above directions given by it.

Be that as it may, the present case on hand is one basically under Section 498-A IPC and also for other allied offences. A1 is the husband; petitioners/A2 and A3 are parents in law; petitioner/A4 is the brother of A1 and petitioner/A5 is the maternal uncle of A1. The FIR was registered on 22.8.2017 and it is under investigation.

As the matter stands, the present case, as requested by the learned counsel for the petitioner, can be directed to be referred to the concerned Family Welfare Committee for its interaction with the parties and filing report in terms of the directions given in the aforesaid judgment.

Accordingly, the Investigating Officer of Arundalpet Police Station, Guntur Urban is directed to refer Crime No. 280 of 2017 to the concerned Family Welfare Committee immediately for its submission of report. Till the Committee submits its report, the investigation may go on but the Investigating Officer shall not arrest the petitioners/ A2 to A5.

Accordingly, the Criminal Petition is ordered. As a sequel thereto, miscellaneous petitions, pending if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 18.09.2017

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Note: Furnish copy by tomorrow.