

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

WRIT PETITION No.21851 of 2017

ORDER:

This petition is filed under Article 226 of the Constitution of India seeking to quash the proceedings against the petitioners/ accused Nos.2 and 3 in Crime No.124 of 2017 on the file of the Station House Officer, Addanki Police Station, Prakasam District, registered for the offences punishable under Section 498-A I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

2. The learned counsel for the petitioners strenuously submitted that the fourth respondent foisted a false case against the petitioners for the reasons best known to her. He further submitted that after receiving of the notice in a divorce petition, the fourth respondent filed the present complaint with an ulterior motive to harass the petitioners and their family members. He also submitted that the allegations made in the complaint do not constitute any offence much less the offences alleged to have been committed by the petitioners.

3. The learned Assistant Government Pleader submitted that the allegations made in the complaint, *prima facie*, constitute the offences alleged to have been committed by the petitioners.

4. A perusal of the record reveals that the petitioners are accused Nos.2 and 3 and the fourth respondent is the *de-facto* complainant in Crime No.124 of 2017. It further reveals that the marriage of the fourth respondent was performed with accused No.1 on 28.02.2016 at Sitara Banquet Hall, Ameerpet, Hyderabad,

as per Hindu rites and caste customs. The fourth respondent and accused No.1 lived together in U.S.A. for some time and thereafter, the fourth respondent came to India.

5. As per the allegations made in the complaint, the petitioners along with accused No.1 subjected the fourth respondent to cruelty physically and mentally for additional dowry.

6. Whether the fourth respondent has lodged the complaint as a counter blast to the divorce petition filed by accused No.1 or not will come to light during the course of investigation. While deciding the petition filed under Article 226 of the Constitution of India the Court has to take into consideration the allegations made in the complaint. The Court is not justified in embarking upon an enquiry to ascertain the truthfulness or otherwise of the allegations made in the complaint. The very purpose of investigation is to ascertain the truthfulness or otherwise of the allegations made in the complaint. The allegations made in the complaint are *prima facie* sufficient to investigate into the matter.

7. Having regard to the facts and circumstances of the case on hand and also the principle laid down in **R.P.Kapoor v. State of Punjab¹**, **State of Haryana v. Bhajan Lal²**, **V.Y.Jose v State of Gujarat³** and **Teeja Devi v State of Rajasthan⁴**, I am of the considered view that it is not a fit case to quash the proceedings at this stage.

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

8. 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, Addanki Police Station, Prakasam District, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C. in Crime No.124 of 2017 so far as the petitioners/accused Nos.2 and 3 are concerned.

9. With the above direction, this Writ Petition is disposed of. As a sequel, miscellaneous petitions, pending if any in this Writ Petition, shall stand closed.

Date: 06.07.2017
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T. SUNIL CHOWDARY, J

⁵ (2014) 8 SCC 273