

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION Nos.9919, 9940 and 9958 of 2017

COMMON ORDER:

These Criminal Petitions are filed under Section 482 Cr.P.C. to quash proceedings in Crime Nos.384, 389 and 390 of 2017 of Subedari Police Station, Warangal, registered for the offences punishable under Sections 406, 420 and 506 read with 34 IPC and Section 76 of C.F.Act.

Though the learned counsel for the petitioners filed the present petitions for quashing of proceedings in Crime Nos.384, 389 and 390 of 2017, he restricts his prayer seeking a direction to the police to follow the procedure under Section 41-A Cr.P.C. and the guidelines issued in *Armesh Kumar v. State of Bihar and another* (Crl.Appeal No.1277 of 2014).

Heard learned Public Prosecutor appearing for the respondent-State.

In *Armesh Kumar v. State of Bihar and another* (Crl.Appeal No.1277 of 2014), the Apex Court held as under:

- 1) All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 Cr.P.C.
- 2) All police officers be provided with a check list containing specified sub-clauses under Section 41 (1) (b) (ii);

- 3) The police officer shall forward the check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;
- 4) The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorize detention;
- 5) The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;
- 6) Notice of appearance in terms of Section 41 A of Cr.P.C. be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;
- 7) Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of Court to be instituted before High Court having territorial jurisdiction.
- 8) Authorising detention without recording reasons as aforesaid by the Magistrate concerned shall be liable for departmental action by the appropriate high court.

The Apex Court also held that “ the directions aforesaid shall not only apply to the cases under Section 498-A of the IPC or Section 4 of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years; whether with or without fine.”

Hence, without touching the merits of the case, the police are directed to follow the procedure under Section 41-A of Cr.P.C. and the guidelines issued in *Arnesh Kumar v. State of Bihar and*

another (Crl.Appeal No.1277 of 2014), failing which it would amount to contempt.

With the above direction, the Criminal Petitions are dismissed.

Miscellaneous petitions pending, if any, shall also stand closed.

M.SATYANARAYANA MURTHY,J

30.10.2017
Prv



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