

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No.718 of 2016

ORDER :

This writ petition is filed by the petitioners seeking *Writ of Certiorari* calling for the connected records pertaining to FIR.No.4/2016 of Eluru II Town Police Station, West Godavari District, and quash the same, as arbitrary and illegal.

The petitioners are A.2 to A.4 in FIR.No.4/2016 of Eluru II Town Police Station, West Godavari District, registered for the offences punishable under Sections 498-A, 435, 436, 307 r/w. 109 of IPC and Sections 3 and 4 of the Dowry Prohibition Act, on the complaint given by respondent No.3.

Heard learned counsel for the petitioner as well as learned Assistant Government Pleader for Home appearing for respondent No.2 and learned counsel for respondent No.3 – defacto-complainant. Perused the material on record.

Learned counsel for the petitioners submits that the petitioners (A.2 to A.4) are entitled for quashing of the proceedings in the above FIR.No.4/2016 as there are no allegations mentioned against them in the above crime to attract the provisions under Sections 498-A, 435, 436, 307 r/w. 109 IPC and Sections 3 and 4 of Dowry Prohibition Act.

On the other hand, learned counsel for respondent No.3 submits that there are serious allegations made against the petitioners and, therefore, they are not entitled for quashing of the proceedings in the above crime.

Learned Assistant Government Pleader for Home submits that as per the counter of respondent No.2 – Inspector of Police, Eluru II Town Police Station, West Godavari District, originally the police registered a case in FIR.No.4/2016 of Eluru II Town Police Station, West Godavari District, against the petitioners for the offences punishable under Sections 498-A, 435, 436, 307 r/w. 109 IPC and Sections 3 and 4 of Dowry Prohibition Act, and investigation is in progress in the said crime. It is further submitted that A.1 in the above crime has already obtained anticipatory bail vide order dated 24.02.2016 in CrI.MP.No.117 of 2016 passed by the Special Judge for Trial of Cases under SCs and STs (POA) Act-cum-VIII Additional District and Sessions Judge, West Godavari District, Eluru. It is also submitted that the Notices under Section 41-A Cr.P.C., have already been served to the petitioners/A.2 to A.5. It is further submitted that, while ordering notice before admission, vide order dated 06.01.2016 this Court directed the police authorities to strictly abide by the directions of the Supreme Court in

ARNESH KUMAR v. STATE OF BIHAR AND ANOTHER¹ while conducting investigation.

In view of the same, pursuant to the interim directions issued by the Court, as investigation is in progress and Notices under Section 41-A Cr.P.C., have already been served to the petitioners/A.2 to A.5, no further orders are required in this matter.

In view of the same, this writ petition is disposed of directing the respondent police authorities to follow the procedure prescribed under Section 41-A of Cr.P.C., and abide by the directions issued by the Apex Court in ARNESH KUMAR's case (supra). As it is represented that A.1 has already obtained bail and attending the Court, the presence of the petitioners (A.2 to A.4) is dispensed with during trial, except on the occasions required by the Court below. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

GUDISEVA SHYAM PRASAD, J

16.04.2018.
Msr

¹ (2014) 8 SCC 273

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