

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION Nos.6147 and 6148 of 2018

COMMON ORDER:

Heard learned senior counsel representing the counsel for petitioners in both the anticipatory bail applications of A1, A2 and A3 respectively and also the Public Prosecutor representing the State. The Crime No.337 of 2018 was registered by Station House Officer, Patamata of Vijayawada City for the offences punishable under Sections 498A, 384, and 506 IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

2. The *de facto* complainant is none other than the wife of A1 and daughter-in-law of A2 and A3. All the three accused persons are running KIMS super speciality hospital at Bilaspur of Chattisgarh, where A1 is Ortho Surgeon, A3 is a Bariatric Surgeon, and A2 is manager of the hospital. The petitioners are seeking anticipatory bail with apprehension of arrest to their indignity by the policy under the guise of the crime despite the quash petition filed by them was disposed of in CrI.P.No.6023 and 6047 of 2018 by respective orders dated 14.06.2018 by another bench of this court to follow the guidelines of the apex court in *Rajesh Sarma vs. State of UP*¹.

3. It is the further submission that despite the above direction, the police issued, which cannot be said ignorantly but for intentionally, notice under Section 41A Cr.P.C. and the same was subject matter of challenge in W.P.No.22456 of 2018 by

¹ 2017(2) ALT (CrI.) 393 SC

another Bench of this court in W.P.Nos.22421 and 22475 of 2018. Undisputedly, those writ petitions were allowed on 16.07.2018 (yesterday) by quashing the same as once the court disposed of the quash petitions to follow the guidelines of *Rajesh Sarma's* case (supra), the question of only referring the parties for any possible reconciliation and not to issue notice for investigation much less to arrest. Once such is the case, there is no basis for any apprehension, which is a prerequisite to maintain the very Anticipatory Bail applications.

4. Having regard to the above, The Criminal Petitions are closed with a clear direction to the police that they shall not call them to the police station but for refer them to the counselling as per the guidelines of *Rajesh Sarma's* case supra and if at all, that counselling is failed, they can take up further investigation concluding them to issue notice under Section 41A Cr.P.C. Needless to say in the course of such requirement of any such investigation for failure of reconciliation, the police strictly follow Section 41A Cr.P.C. by notice requiring their appearance and the question of arrest arises if there is any non-cooperation or of imminent necessity despite compliance that too preferably with permission of the Magistrate concerned as per Section 41A Cr.P.C. clauses (3) and (4) Cr.P.C. and that too follow guidelines referred to in Section 41A CrPC laid down by the Apex Court in *Arnesh Kumar v. State of Bihar*².

² (2014) 8 SCC 273

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

JUSTICE Dr. B. SIVA SANKARA RAO

July 17, 2018
LMV

