

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.8971 of 2018

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code to quash the proceedings in C.C.No.105 of 2018 on the file of Additional Judicial Magistrate of First Class, Sanga Reddy, registered for the offence punishable under Section 498-A IPC, against petitioners.

The petitioners are A2 to A7, who are admittedly the relatives of the husband of the 2nd respondent/

The specific allegation made against the petitioners is that on one occasion all these petitioners along with the husband of the 2nd respondent demanded for purchase of new car and sent her out from the house and later due to intervention of elders, the dispute was settled and the 2nd respondent and her husband lead happy life for some time. Later all these petitioners again sent her out from the house while the 2nd respondent carrying pregnancy, to bring new car.

Demanding purchase of car would fall within the definition of dowry under Section 2 of the Dowry Prohibition Act. Dowry means any property or valuable security given or agreed to be given either directly or indirectly. [\(a\)](#) by one party to a marriage to the other party to the marriage; or [\(b\)](#) by the parent of either party to a marriage or by any other person, to either party to the marriage or to any other person, at or before ¹ [or any time after the marriage] ² [in connection with the marriage of the said parties, but does not include] dower or

mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.

Thus, demand of new car is nothing but demanding of additional dowry in connection with the marriage. Therefore, the allegation made in the complaint would constitute the offence *prima facie* punishable under Section 498-A IPC.

The contention of learned counsel for the petitioners is that there are no specific allegations against any of the petitioners and that they are living separately. The jurisdiction of this Court under Section 482 Cr.P.C. is limited and the Court can exercise jurisdiction to examine the allegations made in the charge sheet or in the complaint and the other documents filed along with the charge sheet and if the allegations made in the charge sheet or constitute cognizable of offence, the Court cannot exercise power under Section 482 Cr.P.C.

In the present case, the allegations made in the charge sheet and the statements recorded by the police under Section 161(3) Cr.P.C. directly pointing out the complicity of the petitioners to attract the offence punishable under Section 498-A IPC. Therefore, I find that it is not a fit case to exercise power under Section 482 Cr.P.C. to quash the proceedings.

At this stage, learned counsel for the petitioners requested the Court to dispense with the appearance of the petitioners by exercising power under Section 205 Cr.P.C or under Rule 37 of the Criminal Rules of Practice. But this Court cannot exercise power under Section 482 Cr.P.C. to pass order under Section 205 Cr.P.C or under Rule 37 of the Criminal Rules of Practice. Therefore, liberty

is given to the petitioners to file appropriate application before the Magistrate concerned.

In the result, the criminal petition is disposed of giving liberty to the petitioners to file appropriate application before the Magistrate concerned and on filing such application after serving notice on the other side, the Magistrate is directed to dispose of the said application in accordance with law keeping mind the guidelines issued by the Apex Court in **Rajesh Sharma & Others Vs. State of U.P. & another**¹

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

24.08.2018
kvrn



JUSTICE M. SATYANARAYANA MURTHY

¹ 2017(2) ALT (CrI.) 393 (SC)