

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.9750 of 2018

ORDER :

This criminal petition filed under Section 438 Cr.P.C. by the petitioner/A.1/husband of the *de facto* complainant in Crime No.121 of 2018 of Saroornagar Women Police Station, Rachakonda Commissionerate, registered for the offences punishable under Sections 498-A and 494 IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

2. Heard learned counsel for the petitioner and learned Public Prosecutor, representing the State, and perused the material on record.

3. The crime was registered on 06.08.2018 on the allegation of the petitioner married, during subsistence of the lawful marriage of the petitioner/A.1 and *de facto* complainant, another woman, by name Madhu Bala/A.2 with the aiding, assistance and abetment of the other accused/A.3 to A.5. The petitioner earlier filed a quash petition and another bench of this Court, by order, dated 17.08.2018, directed to follow the guidelines of **Rajesh Sharma and others v. State of U.P. and another¹**.

4. In fact, the guidelines of Rajesh Sharma were struck down and are no longer available from the recent Three Judge Bench expression of the Apex Court. Though as on the date of order, the guidelines are available including of the direction not to arrest till report of

¹ 2017 (2) ALT (Cr.) 393 (SC)

Committee received. However, that does not prevent him from securing for interrogation as part of investigation. The very order speaks the accused must be available for interrogation purpose.

5. The learned Public Prosecutor submits that the petitioner is out of availability along with A.2, for serving even Section 41-A Cr.P.C. notices, but for others served. His contention that there is apprehension of arrest is baseless. Even from the earlier order, leave about the guidelines of Rajesh Sharma not available after recent expression of the Apex Court, there is a direction of he is making available for interrogation and he is not even making available to receive Section 41-A Cr.P.C. notice.

6. Having regard to the above, the criminal petition is disposed of and the petitioner to appear before the police and receive Section 41-A Cr.P.C. notice within 15 days, for the police to strictly follow Section 41-A Cr.P.C. as per the guidelines of **Arnesh Kumar v. State of Bihar**².

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

20th September 2018.

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² (2014) 8 SCC 273