

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.10537 of 2018

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C., to quash the proceedings against the petitioners/A.1 to A.5 in Crime No.64 of 2018 of Adoni III Town Police Station, Kurnool District, registered for the offences punishable under Sections 498-A and 323 read with 34 IPC.

2. Heard learned counsel for the petitioners and the learned Public Prosecutor appearing for the respondent-police.

3. Basing on the written report of the 2nd respondent-*de facto*, complainant police registered the aforesaid crime. The allegations made in the written report would go to show that the marriage of the 2nd respondent with A.1 was performed about four years back and at the time of marriage, the parents of the 2nd respondent gave an amount of Rs.2,00,000/- as dowry apart from giving 10 tulas of gold. After the marriage, they lived happily for some time. Thereafter, A.1 used to harass the petitioner both physically and mentally to get additional money from her parents for the repairs of lorry. Due to the harassment, the matter was referred to elders and they settled the dispute. But, thereafter, A.1 started harassing her, beat her and necked her out from the house. On the date of incident i.e., on 15.07.2018 on the pretext of settling the dispute before the elders, the 2nd respondent was called to the house of A.1, where A.1, his parents and sister picked up quarrel with her, beat her with hands and kicked her with legs on the abdomen and other parts of the body and caused injuries.

4. The contention of the petitioners is that the allegations made in the written report do not constitute the offence punishable under Section 498-A IPC since the harassment was not in connection with demand of dowry; apart from that there are no injuries on the body of the 2nd respondent and the same is not supported by any medical evidence. Therefore, the petitioners requested this Court to quash the proceedings.

5. Learned Public Prosecutor opposed the petition while contending that at this stage the Court cannot exercise the power under Section 482 Cr.P.C. to quash the proceedings.

6. As seen from the allegations made in the written report submitted by the 2nd respondent, at the time of her marriage with A.1, her parents gave an amount of Rs.2,00,000/- as dowry apart from 10 tulas of gold. After the marriage, while she was living with A.1, A.1 used to demand money to meet lorry repairs. When the 2nd respondent unable to meet the illegal demands, A.1, her parents and sister beat her and necked her out from the house on 15.07.2018. While the 2nd respondent was at her parents' house, she was called to the house of A.1 on the pretext of placing the matter before elders for settlement, but, where all the petitioners voluntarily beat 2nd respondent with hands and kicked her with legs and caused injuries. When these allegations are accepted and taken on its face value, certainly the petitioners have voluntarily caused injuries to the 2nd respondent and thereby committed the offence punishable under Section 323 IPC, *prima facie*.

7. So far as the offence punishable under Section 498-A IPC is concerned, A.1 demanded money, but not in connection with the marriage. Even according to the definition of Section 2 of the Dowry Prohibition Act, 1961, demand of any amount would constitute demand of dowry.

8. Time and again the Apex Court issued certain directions to the Courts not to quash proceedings at the stage when investigation is not yet commenced as laid down in **Kurukshetra University v. State of Haryana**¹ and **State of Orissa v. Saroj Kumar Sahoo**². In view of the law declared by the Apex Court that when the investigation is at foetus stage and not yet commenced and the facts are incomplete and hazy before the Court, the Court cannot exercise power under Section 482 Cr.P.C. to stifle legitimate prosecution at this stage. Therefore, I find that it is not a fit case to quash the proceedings in Crime No.64 of 2018 of Adoni III Town Police Station, Kurnool District, for the offences punishable under Sections 498-A and 323 read with 34 IPC.

9. Accordingly, the Criminal Petition is dismissed at the stage of admission. Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTHY,J

OCTOBER 04, 2018

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¹. (1977) 4 SCC 451

² (2005)13 SCC 540 : 2006(2) ALT (CrI.) 16

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Date:04.10.2018

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