

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.11128 OF 2018

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C by the petitioners/ A2 to A5, seeking to quash the proceedings in C.C.No.502 of 2018 on the file of the Additional Judicial First Class Magistrate, Srikakulam, where taken cognizance for the offences punishable under Section 498-A I.P.C and Sections 3 and 4 of the Dowry Prohibition Act, which is outcome of Crime No.32 of 2018 of J.R.Puram Police Station, Srikakulam, registered on the report of the 2nd respondent/ de facto complainant.

2. Heard the learned counsel for the petitioners, the learned Public Prosecutor representing the State/ 1st respondent and Sri P.Pamesh, learned counsel, who stated that he filed vakalat for the 2nd respondent before the Registry and perused the quash petition averments, charge sheet and the cognizance order in the above crime.

3. The above crime was registered against five accused including A1, who is the husband of the de facto complaint. The police, after investigation filed the final report that was taken cognizance for the above offences in allotting C.C.No.502 of 2018 which is pending.

4. The petitioners/ A2 to A5 herein were even on the concession of notice under Section 41-A Cr.P.C. they were not arrested during investigation and the learned Magistrate taken cognizance for the offences supra and office order dated 18.06.2018 in allotting C.C.No.502 of 2018 mentioned the factum of issuing summons to

A2 to A5 and issued NBW against A1, as he is in abscondance and at Bangkok. In fact, pursuant to the summons, the petitioners have to execute bonds as contemplated by Section 88/ 89 Cr.P.C. for their due appearance with or without surities, which was not ordered by the learned Magistrate, thereby, the petitioners are directed to execute bonds before the learned Magistrate, after their personal appearance.

5. So far as the merits from the cognizance order concerned, for this Court, having gone through, there is nothing to interfere with the cognizance order but for liberty given if at all there is no sustainability accusation along with Part-II Case Diary filed from the prosecution material, file discharge application before the trial Court to hear before the charges and the learned Magistrate shall pass appropriate orders on its merits and subject to that, so far as the difficulty expressed to attend the trial Court regularly for each and every adjournment, more particularly from A2, A3 and A5 aged about 70 years, 67 years and 52 years respectively, liberty is given to the petitioners to approach the trial Court under Rule 37 of the Criminal Rules of Practice for the learned Magistrate to hear and permit with necessary conditions for one to represent others.

6. Accordingly, the Criminal Petition is disposed of.

7. Miscellaneous petitions pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 06.11.2018
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