

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.11316 of 2018

ORDER :

The petitioners are A.2 to A.4. The 2nd respondent is the *de facto* complainant of Crime No.377 of 2018 of Women Police Station, Guntur Urban District, registered for the offences punishable under Sections 498-A and 506 IPC, Section 3 of the Dowry Prohibition Act and Section 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (for short, 'the SC/ST Act') on 04.10.2018.

2. The report of the *de facto* complainant, no other than the wife of A.1, daughter-in-law of A.2 and A.3, and sister-in-law of A.4 reads that she belongs to SC community and resident of Rajendranager 3rd lane of Guntur town. A.1 belongs to Kaapu community-OC and there is an inter-caste marriage. She further averred that after marriage cash and gold jewellery towards dowry given and after marriage her husband was suspecting her fidelity and abusing and beating and necking her out frequently and on 10.05.2017 he beat her and sent her out in the presence of her mother-in-law, father-in-law and brother-in-law/petitioners/A.2 to A.4 and she has been residing lonely therefrom. Her husband now and then coming and behaving properly, however, whenever he suspects he was abusing and beating and he separated the 1st issue in their wedlock without even allowing her to talk to the female child. While so, on 30.08.2016, her husband was talking over

phone and sending messages indecently and when she questioned he beat her indiscriminately unmindful of she was carrying. She gave birth to the male child on 02.09.2016. Her husband/A.1 cause conducted DNA test for the two children in their wedlock out of suspicion on her fidelity though he has connections with other women, he was beating her by suspecting her and for questioning about his phone having contacts with other women including lastly with one Radha for the past four months, when she questioned to answer to that he came to her on 01.10.2018 and beat her and sent her out and behaved indecently in an insulting manner without caring that she is SC by caste by using the words as she has been showing 'malabuddi' being SC by caste by using those words on the public road. When she telephoned to her father-in-law, mother-in-law and brother-in-law, they did not respond. She stated that on 01.10.2018 she thought of giving complaint, however not because of office work and thereby presenting the complaint on 04.10.2018.

3. Leave about the delay of four days in reporting the occurrence even on face value of the complaint, F.I.R. averments, there is no any public view to attract Sections 3(1)(r) and (s) of the SC/ST Act. Public view is different from public place. She was under the mistaken impression therefrom if at all, much less the police officer in registration of the crime under the Special Act without proper reading of the allegations supra. Leave it as it is, there are no allegations to attract any of the offences against A.2 to A.4, who are petitioners

either under Section 498-A IPC or Section 3 of the Dowry Prohibition Act. It is not even the averment that they received dowry, what she stated is she paid cash and gold to her husband and it is he that was harassing to meet the additional demands and for his having contacts with other women, whenever she questioned including to his talking or sending messages with other woman he was beating indiscriminately and was sending her out.

4. The counsel for the 2nd respondent/*de facto* complainant mainly argues that in the course of investigation she has given a statement which attracts the ingredients of the offence and that is not filed by the petitioner and had it been produced there are no grounds to quash the present petition, that is not once before the Court when as per the expression of the Apex Court in **State of Haryana and others v. Ch.Bhajan Lal and others**¹, if on the face value of the F.I.R. no ingredients attract, continuation is an abuse of process. Once such is the case, if at all during investigation any material forthcoming including against the petitioners, there is no bar for the Investigating Officer to include the petitioners for any appropriate penal provisions during investigation. Having regard to the above, there is no any case made out against the petitioners from the face value of the F.I.R., thereby the crime against the petitioners is hereby quashed.

5. Accordingly, the criminal petition is allowed quashing the proceedings against the petitioners/A.2 to A.4 in Crime No.377 of

¹ 1992 Supp. (1) SCC 335

2018 of Women Police Station, Guntur Urban District. Needless to say in the course of investigation if any role of them or others found for any offence, the Investigating Officer is entitled to add any sections of law against any of such. The bail bonds of the petitioners/A.2 to A.4 shall stand cancelled.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

15th November 2018.

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