

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.173 of 2019

O R D E R:

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C'), by the petitioners/accused 1 to 3 to quash the proceedings in C.C.No.379 of 2018 on the file of the XIII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, wherein the Petitioners are being prosecuted for the offences under Section 498-A of I.P.C and Sections 3 and 4 of Dowry Prohibition Act, 1961.

2. Heard the learned counsel for the petitioner/accused Nos.1 to 3, the learned Additional Public Prosecutor representing the respondent No.1-State and Sri G.Shashidar Reddy, learned counsel for respondent No.2 and perused the record.

3. In the course of submissions, it is brought to the notice of this Court that no offence took place within the territory of India, particularly, within the limits of PS. WPS CCS, Hyderabad. Therefore, PS. WPS CCS, Hyderabad has no jurisdiction to investigate and file charge sheet. It is contended that there are no allegations against the petitioners/accused 1 to 3 under the aforementioned Sections. The learned counsel for the respondent No.2/de facto complainant brought to the notice of this Court that the petitioners/accused 1 to 3 filed application under Section 239 CrP.C for their discharge.

4. Under these circumstances, it is pertinent to state that a hearing is contemplated under Section 239 Cr.P.C before charges are framed and proceeded with. The requisite condition to frame charges is that there shall be sufficient ground to proceed for the offence alleged under Section 498A I.P.C and Sections 3 and 4 of Dowry Prohibition Act. If no accusation is found against the petitioners/accused Nos.1 to 3 for the aforementioned offences, the petitioners/accused Nos.1 to 3 are entitled for their discharge. An efficacious remedy is available to the petitioners/accused 1 to 3 under Section 239 Cr.P.C to seek discharge. When an application under Section 239 Cr.P.C is pending, this Court is declined to entertain this petition. However, it is open for the petitioners/accused 1 to 3 to workout their remedy in an application filed under Section 239 Cr.P.C.

5. With the observations as above, the petition is dismissed. Pending Miscellaneous Petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

08th April, 2019
grk