

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.7608 OF 2018

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioners/accused Nos.2 to 6 seeking to quash the proceedings in C.C.No.123 of 2016 on the file of XIII Additional Chief Metropolitan Magistrate, Hyderabad, wherein, the petitioners/accused Nos.2 to 6 are being prosecuted for the offences alleged under Sections 498A, 323 and 506 I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act, 1961 (for short, 'the Act').

2. Heard both sides. Perused the record.

3. Learned counsel for the petitioners/accused Nos.2 to 6 would submit that the petitioners/accused Nos.2 to 6 are related to accused No.1; that there are no specific averments against the petitioners/accused Nos.2 to 6 in the statements of the witnesses, so as to tag the petitioners/accused Nos.2 to 6 in the subject Calendar Case; that without there being any basis, the learned Magistrate has taken cognizance against the petitioners/accused Nos.2 to 6 and ultimately, prayed to quash the proceedings in the subject Calendar Case against the petitioners/accused Nos.2 to 6.

4. Learned Additional Public Prosecutor would contend that there are specific allegations against the petitioners/accused Nos.2 to 6 constituting the offences alleged; that the learned

Magistrate has rightly taken cognizance against the petitioners/accused Nos.2 to 6 and ultimately, prayed to dismiss the petition.

5. Learned counsel for respondent No.2/*de facto* complainant had supported the submissions made by the learned Additional Public Prosecutor.

6. It is pertinent to state that the petitioners/accused Nos.2 to 6, along with accused No.1, are charge sheeted for the offences punishable under Sections 498-A, 323 and 506 I.P.C. and Sections 3 and 4 of the Act. In the course of submissions, it is brought to the notice of this Court that charges are not yet framed by the trial Court. It is appropriate to state that a hearing is contemplated under Section 239 Cr.P.C. before the charges are framed and the accused are proceeded against. On there being sufficient grounds against the accused, the Magistrate has to frame charges in warrant cases and proceed with. In the instant case, the said hearing has not yet taken place. There is an efficacious alternative remedy available to the petitioners/accused Nos.2 to 6 under Section 239 Cr.P.C. At this stage, it is not appropriate to express any opinion on merits of the case, so also, to exercise jurisdiction under Section 482 Cr.P.C. The petitioners/accused Nos.2 to 6 are at liberty to avail the efficacious alternative remedy available to them.

7. At this stage, it is submitted that the petitioners/accused Nos.2 and 3 are old aged persons. In such an event, the petitioners/accused Nos.2 and 3 are entitled to file an application before the trial Court seeking dispensation of their appearance, as and when necessary. In the event of filing such an application, the trial Court may sympathetically consider the same.

8. With the above observations, the Criminal Petition is disposed of.

Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

April 02, 2019.
MD

Dr. SHAMEEM AKTHER, J

