

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.11478 of 2018

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioners/A.1 to A.4 to quash the proceedings in C.C.No.1441 of 2018 on the file of the I Additional Judicial Magistrate of First Class, Nizamabad, registered for the offences punishable under Section 498A of IPC and Section 4 of the Dowry Prohibition Act, 1961.

2. Heard the learned counsel for the petitioners/A.1 to A.4, the learned counsel for the 2nd respondent/de-facto complainant, the learned Additional Public Prosecutor representing the 1st respondent-State and perused the record.

3. The learned counsel for the petitioners/A.1 to A.4 would contend that there is no single allegation against the petitioners/A.1 to A.4 constituting offences punishable under Section 498A of IPC and Section 4 of the Dowry Prohibition Act, 1961. There is also legal notice, which clearly establishes the same. In order to extract huge money from the petitioners/A.1 to A.4, the 2nd respondent/de-facto complainant lodged a false report, dated 20.02.2018, with the police. Thereafter, a fabricated charge-sheet is filed before the trial Court. No cause of action arose at Nizamabad, the police of Nizamabad have no jurisdiction to register the FIR in this crime and the subject report is not maintainable on the ground of territorial jurisdiction and ultimately prayed to allow the application.

4. On the other hand, the learned Additional Public Prosecutor representing the 2nd respondent-State opposed the relief sought by the petitioners/A.1 to A.4 and contended that it is not a fit case to quash the proceedings against the petitioners/A.1 to A.4 in the subject Calendar Case.

5. The learned counsel for the 2nd respondent/de-facto complainant supported the submissions of the learned Additional Public Prosecutor and ultimately prayed to dismiss the application.

6. It is pertinent to state that this Criminal Petition is filed under Section 482 of Cr.P.C., to invoke the inherent powers of this Court to address the contentions raised on behalf of the petitioners/A.1 to A.4. In the course of submissions, it is brought to the notice of this Court that the subject Calendar Case is coming up for appearance of the petitioners/A.1 to A.4 before the trial Court. It establishes that no hearing was made, as required under Section 239 of Cr.P.C. Under these circumstances, an efficacious alternative remedy under Section 239 of Cr.P.C. is available to the petitioners/A.1 to A.4 to address their grievances. It is not appropriate at this stage to invoke the jurisdiction of this Court under Section 482 of Cr.P.C. The petitioners/A.1 to A.4 are granted liberty to file an application under Section 239 of Cr.P.C. before the trial Court, if they choose to do so. Granting such liberty, this Court declines to interfere with the proceedings in C.C.No.1441 of

2018 on the file of the I Additional Judicial Magistrate of First Class, Nizamabad.

7. With the above observation, this Criminal Petition is disposed of.

Pending miscellaneous petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

02nd April, 2019
Bvv

