

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.13004 OF 2018

ORDER:

Heard learned counsel for the petitioners/A-4 & A-5 and the learned Public Prosecutor representing the 1st respondent State and the 2nd respondent/*de facto* complainant represented by the learned counsel in C.C.No.236 of 2017, on the file of the learned XIV Metropolitan Magistrate, Ranga Reddy District, at L.B. Nagar, taken cognizance for the offences punishable under Sections 498-A, 406, 420 & 506 of Indian Penal Code, 1860, and Sections 3 & 4 of the Dowry Prohibition Act, 1961, which is now seeking for quashing.

2. A perusal of the grounds with charge sheet filed against five accused including the petitioners show that A-1 is the husband, A-2 is mother of A-1, case against A-3 deleted and A-4 & A-5 are paternal uncle and aunt of A-1. The police after investigation by citing 11 witnesses filed the charge sheet referred supra that was taken cognizance for the offences supra of whom L.W.1 is the victim, L.W.2 - her elder brother, L.W.3 - co-brother of L.W.5, who is father of victim, L.W.4 - Panchayat elder, L.W.6 - co-tenant of A-1 and whose wife is L.W.7 and L.W.8 is another co-tenant of A-1 and L.W.9 is the doctor, who treated L.W.1 and L.Ws.10 & 11 are the Investigating Officers, who issued FIR and after investigation filed charge sheet by other.

3. From perusal of the statements of the witnesses, the entire allegations mainly are against A-1. What is the additional allegations sofar as the petitioners is that the paternal uncle of A-1 and his wife, who are the petitioners, who were the persons instrumental in cause performing the arranged marriage between *de facto* complainant and A-1 and it is they that are creating problem destroying the marital life of

the *de facto* complainant and A-1 by standing behind and by instigating A-1 and mother of A-1 in causing harassing physically and mentally. This allegation is no doubt as vague as anything without any specific instance of what act constitutes abatement or part of privy to the array. That was not properly adverted to in filing charge sheet by police. However, that is not the end of the matter to go in considering the same as petitioners earlier filed Crl.P.No.4798 of 2018 to quash the cognizance order pending against them and the same was withdrawn with liberty to pursue other remedies while returning certified copy of the impugned order, the other Bench of this Court passed the order on 01.05.2018. Once such was the only limited concession to pursue other remedies, the second application for quash on self-same grounds without liberty to file a fresh application, much less with additional material, no way survive, but for if at all by virtue of this order approach, if no charges framed, by filing application for discharge before the learned trial Judge under Section 239 of Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), for considering on own merits and if at all any charge framed, even that is not a bar by virtue of this order to invoke Section 216 of Cr.P.C. for modification of the same.

4. Accordingly, the Criminal Petition is disposed of rather than dismissal.

Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence.

DR.B.SIVA SANKARA RAO, J

Date: 25th February, 2019

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