

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

TUESDAY, THE NINTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION NO: 8032 OF 2021

Between:

1. Magilla palli Adhinarayana, S/o. Laxmaiah, Aged 68 years, Occ. Agrilculture, Both are R/o. 2-48/49/4/9, Veebadra Colony, Athmakur, Kurnool District.
2. Smt. Magilla pali Chandravathi, W/o. Adhinarayana, Aged 61 years, Occ. Housewife, Both are R/o. 2-48/49/4/9, Veebadra Colony, Athmakur, Kurnool District.

...Petitioners/Accused Nos. 2 & 3

AND

1. State of Telangana, rep. by Public Prosecutor, High Court at Hyderabad.
2. Smt. Suma Sindhu Bysani, W/o. M. Partha Saradhi, D/o. Suryan Narayana Gupta, aged 34 years, Occ. BHEL Employee. Q. No. 2148- C, BHEL Town Ship, R.c. Puram, Sangareddy Dist- 502032.

...Respondent/Defacto Complainant

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to Quash the Criminal Proceedings initiated against the Petitioners/Accused nos. 2 and 3 in C.C. No. 2970 of 2021 on the file Special Magistrate of First Class Prohibition and Excise Offences Court at Sangareddy.

I.A. NO: 2 OF 2021

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings including Personal appearance of the Petitioners/Accused Nos. 2 and 3 in C.C. No. 2970 of 2021 on the file Special Magistrate of First Class Prohibition and Excise Offences Court at Sangareddy.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri Palle Sriharinath, Advocate for the Petitioner and the Assistant Public Prosecutor on behalf of the Respondents.

The Court made the following: ORDER

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.8032 of 2021

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C), is filed by the petitioners/A.2 and A.3 seeking to quash the proceedings against them in C.C.No.2970 of 2021 on the file of Special Judicial Magistrate of First Class, Prohibition & Excise Offences Court at Sangareddy, wherein cognizance was taken for the offences under Sections 498A of IPC and Sections 3 and 4 of Dowry Prohibition Act (for short, 'D.P.Act').

2. Heard the learned counsel for petitioners/A.2 and A.3, learned Assistant Public Prosecutor representing respondent No.1- State and perused the record.

3. The learned counsel for the petitioners/A.2 and A.3 would submit that the allegations made against the petitioners/A.2 and A.3 do not constitute the offences under Sections 498A of IPC and Sections 3 and 4 of D.P. Act. It is further submitted that charges are not yet framed by the trial Court in the subject C.C. and ultimately prayed to allow the Criminal Petition as prayed for.

4. It is pertinent to state that since charges are not yet framed by the trial Court in the subject C.C. and a hearing is contemplated before charges are framed, the petitioners/A.2 and A.3 are entitled to raise all the grounds before the trial Court that are proposed to be raised herein. According to Sections 239 and 240 Cr.P.C, if the Magistrate, upon considering the police report and the documents

sent with it under Section 173 and making such examination, if any, of the accused as he thinks necessary and after giving the prosecution and the accused an opportunity of being heard, considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing. Conversely, if the Magistrate finds that there is a ground for presuming that the accused has committed the offence triable by him, shall frame charge in writing against the accused. Therefore, the petitioners/A.2 and A.3 can file comprehensive application/s under Section 239 Cr.P.C before the trial Court raising the grounds to terminate the proceedings. If there are no grounds to frame charges, the petitioners/A.2 and A.3 are entitled for discharge, in accordance with law. It is for the trial court to record a finding to that effect. The Hon'ble Apex Court has time and again deprecated the practice of invoking the inherent jurisdiction by the High Court under Section 482 Cr.P.C., when an effective and efficacious remedy is available to the accused before the trial Court. The power under Section 482 Cr.P.C is required to be exercised with abundant caution and care. In the given circumstances of the case, when an effective and efficacious remedy is available to the petitioners/A.2 and A.3 under a particular provision of law, it is not appropriate to exercise the inherent jurisdiction of this Court under Section 482 Cr.P.C. It is brought to the notice of this Court that the petitioners/A.2 and A.3 are senior citizens. They are entitled to file application/s under Section 317 of Cr.P.C. before the Court below, if they choose to do so, and on filing of such application/s, if any, the trial Court shall dispose of the same, in accordance with law.

5. With the above observations, this Criminal Petition is disposed of.

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

//TRUE COPY//

SD/-K.SAILESHI
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Special Magistrate of First Class Prohibition and Excise Court at Sangareddy
2. One CC to Sri Palle Sriharinath, Advocate [OPUC]
3. One CC to The Public Prosecutor, High Court for the state of Telangana at Hyderabad [OPUC]
4. Two CD Copies
5. One Spare Copy

KNK
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HIGH COURT

DATED:09/11/2021

ORDER

CRLP.No.8032 of 2021



DISPOSED OF

⑥ VW
1/12/21