

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.10023 OF 2021

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C. '), is filed by the petitioners/A.2 to A.4 seeking to quash the proceedings against them in C.C.No.341 of 2021 on the file of learned Principal Junior Civil Judge-cum-XIV Additional Metropolitan Magistrate, Cyberabad at Rajendernagar, wherein cognizance was taken for the offence punishable under Section 498A I.P.C.

2. Heard the learned counsel for the petitioners/A.2 to A.4, the learned Assistant Public Prosecutor representing the respondent No.1/State and perused the record.

3. In the course of submissions, it is brought to the notice of this Court by both sides that charges are not yet framed by the trial Court in the subject C.C.

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 to A.4 are entitled to raise all the grounds that are proposed to be raised herein, before the trial Court. 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 to A.4 can file a comprehensive application under Section 239 Cr.P.C. before the trial Court raising the grounds to terminate the proceedings, if they choose to do so. If there are no grounds to frame charges, the petitioners/A.2 to A.4 are entitled for discharge, in accordance with law. It is for the trial Court to record a finding to that effect. The Honourable Apex Court has time and again deprecated the practice of invoking the inherent jurisdiction of the High Court under Section 482 Cr.P.C. 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 to A.4 under a particular provision of law, it is not appropriate to exercise the inherent jurisdiction of this Court under Section 482 Cr.P.C.

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

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

Dr. SHAMEEM AKTHER, J

Date: 27.12.2021
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