

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY ONE

**PRESENT
THE HONOURABLE Dr. JUSTICE SHAMEEM AKTHER**

CRIMINAL PETITION NO: 10145 OF 2021

Between:

1. Tanneru Guna Prasad, S/o. Sri.T.Chandrasekhar, Aged 37 Years, Occ Software Engineer,
2. Tanneru Aruna, S/o. Sri.T.Chandrasekhar, Aged 53 Years, Occ Business,
3. Smt.K.Padmaja, W/o. Sri.K.Manikanta, Aged 32 Years, Occ House wife,
4. Tanneru Vidyasagar, S/o. Sri.T.Chandrasekhar, Aged 34 Years, Occ Business, (Petitioners No.1 to 4 all are R/o.H.No.13-8-800/50, Peddakapu Layout, Tirupati Urban, Chittoor District, A.P. - 517 501.)

...PETITIONERS/ACCUSED NOS.1 TO 4

AND

1. The State of Telangana, Rep. by its Public Prosecutor, High Court of Judicature at Hyderabad.
2. Smt.K.Bhargavi, W/o. Sri. Tanneru Guna Prasad, Aged 26 Years, Occ House wife, R/o.H.No.16-1-71, Poosalabasthi, Saidabad, Hyderabad, Telangana State.

...RESPONDENT/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 proceedings in C.C. No.7597 of 2019 pending on the file of XIII Additional Chief Metropolitan Magistrate, Hyderabad in the interest of justice.

I.A. NO: 1 OF 2021

Petition under Section 320(6) 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 record the terms of compromise and quash the proceedings against Respondents/petitioners No.1 to 4 herein in C.C.No 7597 of 2019 pending on the file of Hon'ble XIII Additional Chief Metropolitan Magistrate, Hyderabad, in the interest of justice.

I.A. NO: 2 OF 2021

Petition under Section 320(2) 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 record the terms of compromise and quash the proceedings in C.C. No.7597 of 2019 pending on the file of Hon'ble XIII Additional Chief Metropolitan Magistrate, Hyderabad.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri S.BHASKARAN, Advocate for the Petitioners and of the Additional Public Prosecutor on behalf of the Respondent No.1 and of Sri S.Someshwar Rao, Advocate for the Respondent No.2.

The Court made the following: ORDER

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.10145 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.1 to A.4 seeking to quash the proceedings against them in C.C.No.7597 of 2019 on the file of learned XIII Additional Chief Metropolitan Magistrate, Hyderabad, wherein cognizance was taken for the offences punishable under Sections 498-A and 406 of I.P.C. and Sections 4 and 6 of the Dowry Prohibition Act.

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

3. Learned counsel for the petitioners/A.1 to A.4 would submit that there are no sufficient grounds or allegations to constitute the offences alleged against the petitioners/A.1 to A.4. The Court below erroneously took cognizance against the petitioners/A.1 to A.4 for the offences under Sections 498-A and 406 of I.P.C. and Sections 4 and 6 of the Dowry Prohibition Act and therefore, continuation of proceedings against the petitioners/A.1 to A.4 is abuse of process of law, unsustainable and ultimately, prayed to allow the petition, as prayed for.

4. On the other hand, learned Assistant Public Prosecutor opposed the relief sought by the petitioners and contended that

the allegations made against the petitioners/A.1 to A.4 constitute the offence under Section 498-A of I.P.C and it is not a fit case to quash the proceedings against them and ultimately, prayed to dismiss the criminal petition.

5. As seen from the Remand Case diary, there are allegations of the petitioners/A.1 to A.4 harassing the respondent No.2/*de facto* complainant physically and mentally besides demanding additional dowry. Therefore, continuation of proceedings against the petitioners/A.1 to A.4 cannot be held as abuse of process of law.

6. 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.

7. 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.1 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

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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.1 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.1 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 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.1 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. In the event of petitioners/A.1 to A.4 filing an application before the trial Court, the trial Court shall dispose of the same, independently, on merits, in accordance with law. It is made clear that no opinion is expressed with regard to merits or demerits of the case.

8. With the above observations, this Criminal Petition is dismissed.

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

//TRUE COPY//

Sd/-K.ONESIM
ASSISTANT REGISTRAR
Go
SECTION OFFICER

To

1. The XIII Additional Chief Metropolitan Magistrate, at Nampally, Hyderabad.
2. The Station House Officer, WPS, CCS, DD, Hyderabad.
3. One CC to Sri S.Bhaskaran, Advocate (OPUC)
4. One CC to Sri S.Someswar Rao, Advocate (OPUC)
5. Two CCs to Public Prosecutor, High Court for the State of Telangana, Hyderabad (OUT)
6. Two CD Copies
7. One Spare Copy

Kj



HIGH COURT

DATED:31/12/2021



ORDER

CRLP.No.10145 of 2021

DISMISSING THE CRLP.

ADJ
29/6/2022 (9)