

THE HONOURABLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION No. 4649 OF 2022

ORDER:

This Criminal Petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed seeking to quash the proceedings in Cr.No.552 of 2022, pending on the file of Rajendranagar Police Station, Cyberabad. The petitioners herein are accused Nos.2 and 3 in the said crime. The offence alleged against them is under Section 420 of IPC.

2. Heard the learned counsel for the petitioners and learned Assistant Public Prosecutor for the respondents. Perused the record.

3. Perusal of the record would reveal that the marriage of A-1 with the 2nd respondent was performed on 28.11.2003 and it is a second marriage to both of them. Thereafter, matrimonial disputes arose between them. The 1st petitioner has lodged a complaint with the Police, Rajendranagar, who in turn registered a case vide Crime No.1925 of 2021 against the 2nd respondent and others for

the offences under Sections 448, 427 read with 34 of IPC. The 2nd respondent has also filed a suit vide O.S.No.551 of 2021 seeking perpetual injunction against the petitioners herein. Accused No. 1 has filed a petition before the District Court, 417th Judicial District, Collin County, Texas seeking dissolution of marriage. The said Court had passed an order with regard to custody of the children. The said facts would reveal that there are matrimonial disputes between A-1 and the 2nd respondent. In matrimonial disputes, custodial interrogation of accused is not required. Both the petitioners herein are parents of A-1 aged about 69 and 77 years respectively. Thus, there are several factual aspects to be investigated into by the Investigating Officer during the course of investigation. The punishment prescribed for the offences alleged against the petitioners herein is below seven years.

4. In view of the above discussion, this Criminal Petition is disposed of directing the Investigating Officer in Cr.No.552 of 2022, pending on the file of Rajendranagar Police Station, Cyberabad, to strictly follow the mandatory

procedure contemplated under Section 41-A of Cr.P.C. and also the guidelines issued by the Hon'ble Supreme Court in ***Arnesh Kumar v. State of Bihar***¹. Till completion of investigation and filing of final report, the Investigating Officer is further directed not to arrest the petitioners herein. The Investigating Officer is further directed to consider the reply submitted by the petitioners to the notice issued under Section 41-A Cr.P.C along with the documents to be filed by them. However, it is made clear that the petitioners shall cooperate with the Investigating Officer by furnishing information and documents as sought by him in concluding the investigation.

Miscellaneous Petitions, pending if any, shall stand closed.

K. LAKSHMAN, J

Date: 08.06.2022
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¹ (2014) 8 SCC 273