APHC010222752023

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3604]**
(Special Original Jurisdiction)

WEDNESDAY, THE 18th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION NO: 3261/2023

Between:

1. DR.MOHAMMAD KHAJA HAMEEDUDDIN, AGED ABOUT 69 YEARS, S/O. LATE MD. AZIZUDDIN,
2. MRS. HASEENA HAMID,, W/O DR.MOHARNMAD KHAJA HMEEDUDDIN
3. MR. MOHAMMAD KHAJA GAYASUDDIN,, S/O.DR.MOHAMMAD KHAJA HAMEEDUDDIN AGED ABOUT 41 YEARS, ALL ARE RESIDING, AT H.NO.80, 1ST MAIN, 1ST CROSS, DHARMANA GARDEN, DINNUR MAIN ROAD, R.T NAGAR, BANGALORE.

...PETITIONER/ACCUSED(S)

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT OF JUDICATURE OF ANDHRA PRADESH, AT AMARAVATHI.
2. SHAIK TAHASEEN, W/O NAWAZUDDIN MOHAMMED KHAJA, D/O. DR.S.ABDUL KHADAR, RETD. PRINCIPAL, R/O.D.NO.43/262-1C, ROAD NO. 10, N.R.PETA, KURNOOL- 518004

...RESPONDENT/COMPLAINANT(S):

Petition under Section 437/438/439/482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Courtpleased to call for the records in P.R.C.No.14 2022.. on the file of the Court of the Judicial Magistrate of First Class, Kurnool and Quash the same against the Petitioners/Accused 2, 3 and 4, in the interest of justice, and pass

IA NO: 1 OF 2023

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal

Petition,theHigh Court may be pleased pleased to stay of all further proceedings in PRC No.14/2022 on the file of the Judicial Magistrate of Ist Class Judge, Kurnool, pending disposal of the quash petition, and pass

IA NO: 2 OF 2023

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition,the High Court may be pleased Pleased to extend the interim Order dt. 08-08-2023 granted in IA No. 1 of 2023 passed in Crl. P no. 3261 of 2023 pending disposal of the main Criminal petition and pass

IA NO: 3 OF 2023

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition,the High Court may be pleased pleased to extend the interim order, dt. 17-10-2023 granted in I.A.No.1 of 2023 passed in Crlp.no.3262 of 2023 pending disposal of the main Crl.petition and pass

Counsel for the Petitioner/accused(S):

1. B PARAMESEWARA RAO

Counsel for the Respondent/complainant(S):

1. PUBLIC PROSECUTOR (AP)
2. SHAFATH AHMED KHAN

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION NO: 3261 OF 2023

ORDER:

This Criminal Petition is filed by the petitioners/accused Nos.2 to 4 to quash the proceedings against them in P.R.C. No.14 of 2022 on the file of the Court of the Judicial Magistrate of First Class, Kurnool, for the offences punishable under Sections 498-A, 307 and 506 read with Section 34 of the Indian Penal Code (for short, "the IPC") and Sections 4 and 6 of the Dowry Prohibition Act, 1961 (for short, "the Act").

2. The case of the petitioners is that they have not committed any offence as alleged by the prosecution, they never resided with respondent No.2 and accused No.1 and that they are no way concerned with the alleged incidents, no specific allegations are made against them and the ingredients of the offences alleged are not attracted, petitioner Nos.1 and 2 are senior citizens, the allegations are directed mainly against accused No.1, they never demanded dowry from respondent No.2 and that no prima facie case is made out against them and therefore, continuation of the proceedings against them would amount to an abuse of the process of the Court.

3. Heard Sri B. Parameswara Rao, learned counsel for the petitioners, Smt. K. Priyanka Lakshmi, learned Assistant Public Prosecutor appearing for respondent No.1, and Sri Shafath Ahmed Khan, learned counsel appearing for respondent No.2.

4. Perused the material available on record.

5. As seen from the record, basing on the report of the respondent No.2, a case in Crime No.61 of 2019 was registered for the offences stated *supra* and after completion of the investigation, the Investigating Officer filed charge sheet for the said offences against the petitioners and accused No.1. The

report lodged by respondent No.2 and her statement recorded under Section 161 Cr.P.C., along with the statements of other witnesses reveal allegations against petitioner Nos.1 and 2, who are the parents-in-law of respondent No.2. Certain specific incidents of alleged harassment have been referred to in those statements. At this stage, this Court cannot undertake an appreciation of the truth or otherwise of those allegations or determine whether petitioner Nos.1 and 2 actually committed the acts alleged against them. Those are matters to be considered by the competent Court on the basis of the evidence placed before it. The contention that they did not harass respondent No.2 or demand dowry, therefore, cannot be accepted as a ground for quashing the proceedings at this stage.

6. So far as petitioner No.3/Brother of accused No.1, resident of Bengaluru is concerned, the material placed on record does not disclose any specific allegation or material indicating his involvement in the alleged offences. The allegations in the report and the statements of the witnesses do not attribute any particular overt act to him. Mere relationship with accused No.1, without supporting allegations or material showing his participation in the alleged offences, is not sufficient to compel him to face criminal proceedings. In the absence of material connecting petitioner No.3 with the alleged offences, continuation of the proceedings against him would amount to an abuse of the process of the Court.

7. Learned counsel for the petitioners would finally submit that, in any event, the personal appearance of petitioner Nos.1 and 2 before the learned Magistrate may be dispensed with, as they are senior citizens residing at Bengaluru, whereas, the proceedings are pending at Kurnool. It is submitted that travelling from Bengaluru to Kurnool on each date of hearing would cause them considerable hardship.

8. The power to dispense with the personal attendance of an accused is discretionary and has to be exercised having regard to the nature of the

proceedings, the stage of the case, the conduct of the accused and the requirements of justice. The object is to avoid unnecessary hardship where the personal presence of the accused is not required, without impairing the progress of the proceedings or causing prejudice to the prosecution or the complainant. Having regard to the age of petitioner Nos.1 and 2 and their residence at Bengaluru, their personal attendance on every date may cause avoidable hardship. At the same time, the offences alleged are serious and the learned Magistrate must retain the discretion to require their personal presence whenever it is necessary for the proper conduct of the proceedings. Accordingly, their appearance through counsel may be permitted on routine dates, subject to their remaining present whenever directed by the learned Magistrate. This arrangement shall not be treated as an exemption from any appearance specifically required by law or directed by the Court.

9. The principles governing the exercise of inherent jurisdiction under Section 482 Cr.P.C. are well settled. While considering a request to quash criminal proceedings, the High Court must ordinarily proceed on the basis of the allegations in the complaint/FIR and the material accompanying it, taken at face value. The Court should not embark upon an enquiry into the reliability, genuineness or truth of the allegations. If, even after accepting the allegations in their entirety, no offence is made out against an accused, the proceedings may be quashed. However, the power must be exercised sparingly, carefully and with circumspection, and not as a matter of routine. The inherent jurisdiction does not confer an arbitrary power on the Court to act according to its whims or caprice.

10. In ***State of Haryana v. Bhajan Lal and others***[1], the Hon'ble Supreme Court illustrated the categories of cases in which the inherent power to quash criminal proceedings may be exercised. The relevant categories are as follows:

[1] 1992 Supp (1) SCC 335

i) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against the accused.

ii) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1), except under an order of a Magistrate within the purview of Section 155(2) of the Code.

iii) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

iv) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, and no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

v) Where the allegations made in the FIR or complaint are so absurd and inherently improbable that, on their basis, no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

vi) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act under which a criminal proceeding is instituted, to the institution and continuance of the proceedings, and/or where there is a specific provision in the Code or the concerned Act providing efficacious redress for the grievance of the aggrieved party.

vii) Where a criminal proceeding is manifestly attended with mala fides and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to a private and personal grudge.

11. Applying the above principles to the facts of the present case, the material on record contains allegations against petitioner Nos.1 and 2 which, if taken at face value, require consideration by the trial Court. It would not be appropriate for this Court, in the exercise of its inherent jurisdiction, to assess the truth or otherwise of those allegations or to conduct a mini-trial. The grounds urged on their behalf do not, at this stage, fall within the categories warranting quashing of the proceedings. The request to quash the proceedings against petitioner Nos.1 and 2 is, therefore, liable to be rejected. However, for the reasons stated above, their personal attendance on routine dates can be dispensed with, subject to the conditions set out below.

12. **In the result,** and for the foregoing reasons, this Criminal Petition is allowed in part, quashing the proceedings against petitioner No.3/accused No.4 alone in P.R.C. No.14 of 2022 on the file of the Court of the Judicial Magistrate of First Class, Kurnool, for the offences punishable under Sections 498-A, 307 and 506 read with Section 34 of the IPC and Sections 4 and 6 of the Dowry Prohibition Act, 1961. This Criminal Petition, insofar as petitioner Nos.1 and 2/accused Nos.2 and 3 are concerned, is dismissed, however, having regard to the age and place of residence of petitioner Nos.1 and 2, their personal attendance before the learned Magistrate is dispensed with on routine dates, and they are permitted to appear through their counsel. However, they shall remain present before the learned Magistrate whenever their personal attendance is specifically directed. The learned Magistrate is at liberty to insist upon their personal attendance for reasons to be recorded. This direction shall not prevent the learned Magistrate from proceeding in accordance with law.

As a sequel thereto, all pending miscellaneous petitions, if any, shall stand closed.

SUNITHA GANDHAM, J

18.11.2026

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