

HON'BLE SRI JUSTICE K. SREENIVASA REDDY

Criminal Petition No.863 of 2023

Order:

This Criminal Petition, under Section 482 Cr.P.C. has been filed on behalf of the petitioners/A1 to A5 to quash the proceedings in Crime No.06 of 2023 of Disha Urban Police Station, Kakinada.

2. A case has been registered against the petitioners for the offences punishable under Sections 498-A, 506 IPC and 3 and 4 of the Dowry Prohibition Act.

3. Case of the prosecution, in brief, is that marriage between the *de facto* complainant and A1 was performed on 30.07.2022. At the time of marriage, as per the demand of A1 to A5, parents of the *de facto* complainant presented Ac.2.00 of land, Rs.10.00 Lakhs cash, gold ornaments weighing about 3 Sovereigns and other lanchanams worth of Rs.6.00 Lakhs to A1 towards dowry. After some time, A1 started harassing the *de facto* complainant both mentally and physically with the active support of A2 to A5. They all demanded the *de facto* complainant to bring additional dowry of Rs.20.00 Lakhs from her parents and they threatened her with dire consequences. Unable to bear the harassment of A1 to A5, the *de facto* complainant came to house of her parents.

4. Learned counsel for the petitioners contends that petitioner No.1 herein filed OP No.520 of 2022 on the file of the learned Senior

Civil Judge, Kakinada, seeking dissolution of marriage and the *de facto* complainant filed vakalat in the said OP. Thereafter, after lapse of 52 days, the *de facto* complainant has resorted in filing the present complaint. He strenuously contended that no reasons were given for the said delay. He further submits that even accepting the entire accusations to be true, still the specific ingredients under the alleged offences are not made out against the petitioners herein for the reason that in the entire complaint no specific overt acts are attributed against the petitioners herein and only omnibus accusations are made against them.

5. On the contrary, learned Assistant Public Prosecutor contended that 52 days' of delay is of no consequence for the reason that the offence under Section 498-A IPC is a continuous one and that those aspects cannot be gone into by this Court at this stage. He further contended that there are specific accusations against the petitioners herein, and truth or otherwise of the said accusations can be decided only during the course of trial.

6. Heard. Perused the material on record.

7. Going by the record, marriage between accused No.1 and the *de facto* complainant was performed on 30.07.2022 in the presence of elders as per the Hindu customs. At the time of marriage, as per the demand of A1 to A5, parents of the *de facto* complainant gave Rs.10.00 Lakhs and Ac.02.00 of land towards dowry and Rs.6.00

Lakhs towards other lanchanams and 3 sovereigns of gold ornaments to A1. Initially, the *de facto* complainant was taken care of well by the accused and, thereafter, A1 started harassing the *de facto* complainant both mentally and physically with the active support of A2 to A5 demanding to bring additional dowry of Rs.20.00 Lakhs from her parents and threatened her with dire consequences. Truth or otherwise of the said accusations can be decided only during the course of trial. It is premature for this Court to conduct a roving enquiry into the disputed questions of fact in a petition filed under Section 482 Cr.P.C. and quash the proceedings.

8. In view of the aforesaid facts and circumstances of the case, this Court is not inclined to interfere with the proceedings at this stage. However, the police concerned are directed to follow the procedure contemplated under Section 41A of Cr.P.C. scrupulously as per the guidelines laid down under ***Arnesh Kumar Vs. State of Bihar and another***¹.

9. With the above direction, the Criminal Petition is disposed of.

As a sequel thereto, the miscellaneous applications, if any, pending in this Criminal Petition shall stand closed.

K. SREENIVASA REDDY, J

Dated:03.02.2023
Nsr

¹ (2014) 8 SCC 273

HON'BLE SRI JUSTICE K. SREENIVASA REDDY

Criminal Petition No.863 of 2023

Dated:03.02.2023

Nsr