

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: 10171 OF 2021

Between:

1. Bhashaboina Ashok, S/o. Kumara Swamy, Age- 27 years, Occ- unemployee R/o. Balvanthapur, Duggondi Mandal, Warangal District
2. Bhashaboina Kumara Swamy, S/o. Sambaiyah, Age- 60 years, Occ- farmer R/o. Balvanthapur, Duggondi Mandal, Warangal District
3. Bhashaboina Komuramma @ Komurakka, W/o. Kumara Swamy, Age- 59 years, Occ- housewife R/o. Balvanthapur, Duggondi Mandal, Warangal District
4. Peraboina Kumara Swamy, S/o. Chandraiah, Age- 48 years, Occ- unemployee R/o. Balvanthapur, Duggondi Mandal, Warangal District
5. Peraboina Samatha, W/o. Kumara Swamy, Age- 29 years, Occ- unemployee R/o. Balvanthapur, Duggondi Mandal, Warangal District

...PETITIONERS/ACCUSED 1 TO 5

AND

1. State of Telangana, Rep through the Public Prosecutor, A.P. High Court, Hyderabad
2. Gajji Umadevi, D/o. Odalu, Age- 23 years, Occ- student R/o. Mulugu, (Mulugu District) Warangal District

...RESPONDENTS/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.657 of 2021 on the file of the Judicial First Class Magistrate, Mulugu, Mulugu District.

I.A. NO: 1 OF 2021

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 grant stay of further Proceedings in C.C.No.657 of 2021 on the file of the Judicial First Class Magistrate, Mulugu, including personal appearance of the Petitioners.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri N. V. Anantha Krishna, Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent No.1 and of the Respondent No.2 not appeared either in person or by Advocate.

The Court made the following: ORDER

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.10171 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.5 seeking to quash the proceedings against them in C.C.No.657 of 2021 on the file of learned Judicial Magistrate of First Class, Mulugu, wherein cognizance was taken for the offence punishable under Section 420 I.P.C. and Section 3 of the Dowry Prohibition Act.

2. Heard the learned counsel for the petitioners/A.1 to A.5, 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.5 would submit that there is no material to substantiate that the petitioners have demanded dowry etc., from the respondent No.2/*de facto* complainant. Basing on the statements of some of the witnesses, the petitioners/A.1 to A.5 were roped into the present case on false and frivolous allegations and hence, continuation of proceedings against them is abuse of process of law and ultimately prayed this Court to quash the proceedings against the petitioners/A.1 to A.5.
4. As seen from the material placed on record, the allegation against the petitioners/A.1 to A.5 is that unless the respondent No.2/*de facto* complainant meets their dowry demand, they would not perform her marriage with the petitioner No.1/A.1.

The petitioners/A.1 to A.5 also abused her in filthy language. When there is such an allegation, it cannot be held that continuation of proceedings against petitioners/A.1 to A.5 is abuse of process of law.

5. 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.

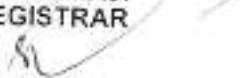
6. It is pertinent to state that since charges are not yet framed by the trial Court in the subject C.C. and a hearing is contemplated before charges are framed, the petitioners/A.1 to A.5 are entitled to raise all the grounds that are proposed to be raised herein, before the trial Court. According to 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.1 to A.5 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.5 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.5 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.5 filing an application under Section 239 Cr.P.C 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.

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

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

SD/-K. AMMAJI
ASSISTANT REGISTRAR

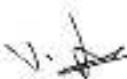

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SECTION OFFICER

To,

1. The Judicial First Class Magistrate, Mulugu District Warangal.
2. One CC to Sri N. V. Anantha Krishna, Advocate [OPUC]
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad. [OUT]
4. Two CD Copies
5. One Spare Copy

gbr



HIGH COURT

DATED: 31/12/2021



ORDER

CRL.P.No.10171 of 2021

DISPOSING OF THE CRIMINAL PETITION

7 V.W
22/2/22