



HIGH COURT OF ANDHRA PRADESH
THURSDAY ,THE NINTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY THREE

PRSENT

THE HONOURABLE MS JUSTICE B S BHANUMATHI
CRIMINAL PETITION NO: 712 OF 2023

Between:

1. RAJ GANESH RAMESH KUMAR S/o. R. Ramesh Kumar, aged 32 years, R/o. 2/8, Ramasamy Street, Jain Abinandhan Apartments, Thiyagaraya Nagar, Chennai - 600017.
2. R. Sumathi @ Sumathi Ramesh Kumar, W/o. R. Ramesh Kumar, aged 56 years, R/o. 2/8, Ramasamy Street, Jain Abinandhan Apartments, Thiyagaraya Nagar, Chennai - 600017.
3. R. Ramesh Kumar @ Ramesh Kumar Rangan , S/o.Rangan, aged 60 years, R/o. 2/8, Ramasamy Street, Jain Abinandhan Apartments, Thiyagaraya Nagar, Chennai - 600017.

...PETITIONER(S)

AND:

1. THE STATE OF ANDHRA PRADESH Rep. by its Public Prosecutor, High Court of Andhra Pradesh, High Court Buildings at Nelapadu, Guntur District, Andhra Pradesh.

...RESPONDENTS

Counsel for the Petitioner(s): V SAI KUMAR

Counsel for the Respondents: PUBLIC PROSECUTOR (AP)

The Court made the following: ORDER

**THE HON'BLE MS JUSTICE B.S. BHANUMATHI****Criminal Petition No.712 of 2023****Order:**

This Criminal Petition, under Section 438 of the Code of Criminal Procedure, 1973 ('CrPC'), is filed to grant anticipatory bail to the petitioners/A1 to A3 in Crime No.86 of 2022 of Disha Police Station, Nellore, SPSR Nellore district, registered for the offences punishable under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act.

2. The petitioners contended that, at the behest of the *de facto* complainant, on the similar allegations, the Women Police Station, T. Nagar, Chennai, called the petitioners, after the 1st petitioner filed a petition for divorce in HMOP No.5305 of 2022 on the file of the learned V Additional Family Court, at Chennai, as a counter blast to the said petition. Petitioners further contended that owing to the complaint before the Women Police Station, the concerned police called the petitioners on 02.12.2022, but as they were not in reach, the police called one Mr. Dinesh and Mr. Padmanaban on the pretext of enquiry and held them at the Police Station by wrongfully restraining them from 11.00 AM till 05.30 PM and demanded that they would be released only after producing the petitioners before them and due to such conditions the petitioners moved a petition in CrI.OP No.30294 of



2022 before the High Court of Judicature, at Madras, seeking anticipatory bail and thereon the High Court passed an order dated 08.12.2022 directing the police to issue notice under Section 41-A Cr.P.C., to the petitioners and further observing that, if any *prima facie* case is made out against the petitioners, to register FIR or close the petition within a period of two weeks from the date of receipt of a copy of the order. Petitioners further contended that soon after the said order, within next five (5) days, the police in the present case have started calling the 1st petitioner on phone representing that a case was registered and also directing the 1st petitioner to be present along with his parents. Petitioners further stated that the *de facto* complainant filed MC No.3 of 2023 before the learned VI Additional District Judge, Nellore, under Section 125 Cr.P.C., and the said case is coming up for hearing as on 02.02.2023. The petitioners further contended that the previous complaint before the Women Police Station, T. Nagar, Chennai is still pending and that despite the matter being purely matrimonial dispute, the *de facto* complainant is influencing the police and harassing the petitioners.

3. Ms. P. Sai Sanutha, learned counsel representing Sri V. Sai Kumar, learned counsel for the petitioners, requested to grant anticipatory bail to the petitioners, in view of the above facts.



4. Learned Assistant Public Prosecutor representing the respondent-State opposed the petition and submitted that at the most the petitioners may claim the benefit under Section 41-A Cr.P.C.

5. As can be seen from the material available before this Court, there appears that no case is registered before any other police station anywhere, though the petitioners might have appeared before other police for conciliation. So, insofar as this case is concerned, since the provisions of law under which the case was registered comes within the scope of Section 41-A Cr.P.C., the police can be given directions to follow the same and, therefore, there is no need to apprehend any illegal arrest and thereby anticipatory bail need not be granted.

6. Accordingly, the Criminal Petition is disposed of directing the police concerned to strictly follow the procedure contemplated under Section 41-A Cr.P.C., as per the directions and guidelines given by the Hon'ble Supreme Court in a decision reported in ***Arnesh Kumar Vs. State of Bihar***¹.

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

B.S. BHANUMATHI, J.

Date:09.02.2023
Nsr

¹ (2014) 8 SCC 273



BSB, J

Crl.P.No.712 of 2023 *2023:APHC:3445*

4

THE HON'BLE MS JUSTICE B.S. BHANUMATHI

Criminal Petition No.712 of 2023

Date: 09.02.2023

Nsr