

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

Criminal Petition No.8489 OF 2018

Between:

Gangadhara Manoj and 3 others

... Petitioners/A2 to A5

And

1. The State of Telangana,
Rep. by its Public Prosecutor ,
High Court for the State of Telangana,
Hyderabad.

....Respondent

2. Gangadhara Shylaja

...Respondent/Complainant

DATE OF JUDGMENT PRONOUNCED : 12.10.2023

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

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|--------------------------------------------------------------------------------|--------|
| 1 Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3 Whether Their Ladyship/Lordship Wish to see their fair copy of the Judgment? | Yes/No |

K.SURENDER, J

*** THE HON'BLE SRI JUSTICE K. SURENDER**

+ Criminal Petition No.8489 OF 2018

% Dated 12.10.2023

Gangadhara Manoj and 3 others

... Petitioners/A2 to A5

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Rep. by its Public Prosecutor ,
High Court for the State of Telangana,
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2. Gangadhara Shylaja

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! Counsel for the Petitioners: Sri Y.Randheer

^ Counsel for the Respondents: Sri Public Prosecutor

>HEAD NOTE:

? Cases referred

THE HON'BLE SRI JUSTICE K. SURENDER**CRIMINAL PETITION No. 8489 OF 2018****ORDER:**

This Criminal Petition was filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioners/A1 to A2 to A5, to quash the proceedings against him in C.C.No.201 of 2018 on the file of Special Mobile Court J.F.C.M., Nizamabad. The offences alleged against the petitioners are under Sections 498-A of the Indian Penal Code.

2. Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the respondent-State.

3. The 2nd respondent filed a complaint stating that she was married to Accused No.1. The first wife of Accused No.1 died, pursuant to which, at the instance of the family members her marriage was performed with A1. After the marriage, the family members of A1 started harassing her and though the defacto complainant asked them to spare her, the harassment continued. On 16.03.2017, the marriage of 2nd respondent's brother was performed and in the said marriage, Accused No.1 and his younger brother beat her stating that she did not get enough dowry. In the past also, Accused No.1 kicked in her stomach resulting in her abortion. On

23.03.2017, her husband's younger son also kicked in her stomach for additional dowry. Accordingly, complaint was filed.

4. The police after examination of witnesses in the case found that no offence was made out against Accused Nos.2 to 5 who are the petitioners herein and accordingly, filed charge sheet only against Accused No.1 making a request to drop proceedings against A2 to A5.

5. Learned Magistrate has not passed any orders as to why cognizance has taken against the petitioners herein. A format stamp was affixed in the charge sheet taking cognizance against these petitioners and directed to register as CC. The Superintendent has put up a note at the end of the charge sheet stating that "the charge sheet was checked and found in order. As per report and statement of defacto complainant, A2 to A5 have also harassed the defacto complainant".

6. The said note of the Superintendent on the charge sheet will not suffice to take cognizance of the offence against whom the Police did not find any evidence during the course of investigation. In the event of dropping proceedings by the Police during investigation, it is incumbent on the Magistrate to issue notice to the complainant regarding dropping of proceedings against the accused. If the complainant files a Protest Petition or a Private Complaint alleging that the accused against whom proceedings also dropped have to be

tried. The Magistrate has to follow the procedure under Section 200 of the Cr.P.C. The Magistrate shall record the evidence of witnesses and thereafter has to record his satisfaction as to why the accused against whom Police has found no evidence, have to be summoned, to be tried in the case. No such procedure was followed in the present case. The Act of learned Magistrate in directing issuing of summons against the petitioners herein/A2 to A5, on the basis of note put up by the Superintendent, is found fault with.

7. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioners/A2 to A5 in C.C.No.201 of 2018 on the file of Special Mobile Court J.F.C.M., Nizamabad, are hereby quashed.

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

Date: 12.10.2023
tk

K.SURENDER, J

THE HON'BLE SRI JUSTICE K. SURENDER

CRIMINAL PETITION No. 8489 OF 2018

Date: 12.10.2023

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