

IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

HON'BLE MR.JUSTICE DHIRAJ SINGH THAKUR, CHIEF JUSTICE

&

HON'BLE MR. JUSTICE R. RAGHUNANDAN RAO

WRIT PETITION No.20594 of 2021

Veerabhadra Rao Pamarathi,
S/o.late Sri P.V. Narayana Swamy,
Aged about 68 years,
Occ: Retired Deputy Tahsildar,
R/o.D.No.11-968, Aravinda Nagar,
Anantapur, Andhra Pradesh & another.

... Petitioners

Versus

Union of India,
Represented by its Secretary,
Ministry of Law and Justice,
Dept. of Legal Affairs,
Shastri Bhawan,
Dr.Rajendra Prasad Road,
New Delhi, 110001 & three others.

...Respondents

Mr. Sandeep Bhavan Pamarati, Counsel for the petitioners.

Mr. N. Harinath, Deputy Solicitor General, counsel for respondent No.1.

Learned Government Pleader for Home, counsel for respondent Nos.2 to 4.

Dt.: 26.09.2023

PER DHIRAJ SINGH THAKUR, CJ (Oral)

The petitioners are accused Nos.2 & 3 in C.C.No.220 of 2018, which is pending trial before the Court of the III Additional First

Class Judicial Magistrate, Ongole in Prakasam District. The said case pertains to Section 498-A IPC read with Sections 3 & 4 of the Dowry Prohibition Act, 1961 ['D.P Act'].

2. Counsel for the petitioners urged that although Section 3 of the D.P Act envisages prosecuting not only the dowry takers but also the alleged dowry givers, and that there is no protection at all envisaged in terms of Section 3 of the D.P Act to the dowry givers, yet, only the dowry takers, like the petitioners, are being prosecuted without in the least taking any action against the dowry givers.

2.1 It was urged that Section 7(3) of the D.P. Act was being mis-interpreted by the police authorities in not registering the F.I.R against the alleged dowry givers in the instant case. It was further urged that even when Section 7(3) of the D.P Act did not give any protection to dowry givers, yet, the provision was being mis-interpreted resulting in giving a clean chit to dowry givers.

3. Statistics have been referred to in the petition regarding the number of cases where people had been arrested but none of the dowry givers were proceeded against.

4. It is, in those circumstances, prayed by the petitioners that a Mandamus be issued "*calling the action of the respondents in*

not registering the dowry givers in the impugned F.I.R leading to CC.No.220 of 2018 as illegal and arbitrary” and “declare that dowry givers are equally liable for prosecution as much as dowry takers and that they do not have any protection from prosecution as defined under Section 7(3) of the Dowry Prohibition Act.”

4.1 Additionally, the petitioners seek a direction to the Station House Officer of the Women Police Station concerned, to take steps in their official capacity to ensure that the alleged dowry givers are booked and a supplementary charge sheet is filed against them before the concerned judicial officer.

5. Evidently, the petitioners have not questioned the *vires* of any of the provisions of the D.P Act rather they want a declaration of the provisions of the D.P Act to the extent that the same do not in any manner protect the dowry givers from prosecution if at all they indulge in the act of giving of dowry.

6. We have heard learned counsel for the petitioners.

7. Clearly, the present petition is not maintainable as no declaration of the type which the petitioners seek in the present form can be given by the Court. The petitioners claim to be clear in their mind regarding the provisions of the D.P Act, which according to them, does not at all give any protection to the dowry givers from

prosecution. If that were so, then, nothing prevented the petitioners from approaching the concerned authorities in terms of the judgment of the Apex Court rendered in *Sakiri Vasu v. State of U.P and others* reported in (2008) 2 SCC 409, wherein it was held:

“26. If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police under Section 154(3) Cr.P.C. or other police officer referred to in Section 36 Cr.P.C. If despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate under Section 156(3) Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition under Section 482 Cr.P.C. Moreover he has a further remedy of filing a criminal complaint under Section 200 Cr.P.C...”

8. Admittedly, the averments made in the petition do not suggest that the petitioners had taken steps in line with the directions which were issued by the Apex Court in the aforementioned judgment.

9. In our view, the Writ Petition is clearly misconceived and has no merit and is accordingly dismissed. No order as to costs.

Miscellaneous applications pending, if any, stand closed.

DHIRAJ SINGH THAKUR, CJ

R. RAGHUNANDAN RAO, J

Vjl

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