

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.3016 of 2015

ORDER :

This Criminal Petition is filed by the Petitioners/Accused under Section 482 Cr.P.C seeking to quash the proceedings in C.C. No.113 of 2015 on the file of I Additional Chief Metropolitan Magistrate, Visakhapatnam registered for the offences punishable under Sections 498-A I.P.C and Sections 3 and 4 of the Dowry Prohibition Act.

2) Heard the learned counsel for the petitioners/accused and the 2nd respondent-State represented by the Public Prosecutor before admission and before issuing notice to the 1st respondent and perused the material on record.

3) A perusal of the material on record, the material falls short of this Court even to admit the application under Section 482 Cr.P.C to quash the proceedings but for giving liberty to approach the trial Court and move an application under Section 239 Cr.P.C. for any entitlement of discharge only from the prosecution material to hear and the learned Magistrate can decide the same on its own merits whether there are any grounds for discharge or to frame any lesser charge or the like vide ***State of Orissa V. Debendranath Padhi***^[1]. Needless to say as the petitioners are shown in America as per the address, not in dispute, the plea

regarding jurisdiction also left open to be raised in the application seeking discharge and further needless to say that physical presence of the accused before the Court is very difficult as they want to approach and participate through Special Vakalat holder and appear as and when required. Further, in the event of filing applications under Section 205 Cr.P.C and after hearing, the learned Magistrate shall consider by permitting them to represent through Special Vakalat holder. Needless to say a special vakalat holder also can answer the hearing on charges and any charges framed under Section 240 Cr.P.C. In the event of framing of charges under Section 240 Cr.P.C, further remedy is left open to the petitioners.

4) With the above observations, the petition is disposed of. As a sequel, miscellaneous petitions pending, if any, in this criminal petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

29.06.2015
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[\[1\]](#) (2005)1 SCC 568