

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.9022 OF 2015

ORDER:

This Criminal Petition is filed by the petitioner/*de facto* complainant under Section 482 Cr.P.C seeking to quash the charge sheet in C.C.No.50 of 2009 on the file of Additional Judicial Magistrate of First Class, Bobbili.

Heard the learned counsel for the petitioner and the learned Public Prosecutor for the State before notice to respondent No.2 and before admission.

The peculiar facts of the case in knocking doors of the Court under Section 482 Cr.P.C. are that the *de facto* complainant wants to withdraw the case, which is registered against her husband/1st respondent herein for the offence under Section 498-A I.P.C. which is outcome of the report in crime No.224 of 2008 of Bobbili Police Station. The police after investigation filed final report pursuant to the crime that was taken cognizance by the learned Magistrate, Bobbili and the case is pending since then with N.B.W against the accused unexecuted. It is her version in the quash petition that his whereabouts are not known and even the divorce O.P. filed by her way back in 2012, he remained *ex parte* and untraced and decree granted is by substitute service dated 12.03.2013 in O.P.No.22 of 2012 and because of whereabouts of the husband not known for past several years and because she settled her disputes with other accused who are

in laws and other relatives of the husband undertaking to withdraw the case practically for serving no purpose she seeks permission of the Court. No doubt it is the prosecution that has to withdraw in a police warrant case by invoking Section 321 Cr.P.C.

The learned Public Prosecutor but for saying no objection subject to identity of the *de facto* complainant by police before the Court for withdrawal even by invoking Section 321 Cr.P.C. if the Court is according permission.

Having regard to the above, the *de facto* complainant is directed to appear in person before the trial Court with proof of her identity. In such an event the Assistant Public Prosecutor concerned is required to consider the same by virtue of this order

in according permission from the oral representation of Public Prosecutor as well as *de facto* complainant/victim for withdrawal.

Accordingly, this Criminal Petition is disposed of with above directions.

Miscellaneous petitions pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:01-10-2015

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