

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.7212 of 2015

ORDER :

This petition is filed by the petitioner/accused No.2 under Section 482 Cr.P.C seeking to quash the proceedings in C.C. No.379 of 2014 on the file of Additional Junior Civil Judge, Repalle where the learned Magistrate taken cognizance for the offences punishable under Sections 498-A read with 34 of I.P.C and Sections 3 and 4 of the Dowry Prohibition Act against the petitioner/A-2 and her son, no other than the husband of the 2nd respondent/defacto-complainant of the Crime No.3 of 2014 of Nizampatnam Police Station report dated 27.01.2014.

2) Heard the learned counsel for the petitioner and the 1st respondent-State represented by the Public prosecutor before admission, before ordering notice to the 2nd respondent and perused the material on record.

3) It is the contention of the learned counsel for the petitioner that after the petitioner filed a civil suit O.S. No.2488 of 2013 for prohibitory permanent injunction in XXI Junior Civil Judge, City Civil Court, Hyderabad and also the temporary injunction application in I.A. No.605 of 2013 against the defacto-complainant herein and her parents and other relatives not to enter into her house

which is at Yousufguda, Hyderabad D.No.8-3-676/1/B, the false case is engineered invoking Section 498-A I.P.C by roping her.

4) In fact a perusal of the F.I.R and the investigation material in police filing the charge sheet shows accusation and it is difficult for this Court to come to a conclusion that with spite and vengeance after filing the civil suit the false case is filed, though such defence can be raised during trial.

5) Having regard to the above, the facts fall short to admit the application under Section 482 Cr.P.C to quash the calendar case proceedings rightly taken cognizance by the learned Magistrate and accordingly the petition is disposed of giving liberty to file any application for discharge, if no material to frame charge from entire prosecution material vide ***State of Orissa V. Debendranath Padhi***^[1]. Needless to say that in the event of filing of any application filed either under Rule 37 of Criminal Rules of Practice to represent any one of the accused on behalf of other accused or under Section 205 Cr.P.C to represent through Special Vakalat in the above C.C. the learned Magistrate shall hear and permit with necessary conditions.

6) With the above observations, the criminal petition is disposed of. Consequently, the miscellaneous

petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.26th August, 2015
KSH

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