

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.8463 of 2015

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ORDER :

This criminal petition is filed by the petitioners/A.1 to A.3 and A.5 to A.7 under Section 482 Cr.P.C seeking to quash the proceedings in C.C.No.99 of 2015 on the file of the Judicial First Class Magistrate, Huzurnagar, Nalgonda District, for the offences under Sections 498-A and 506 IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

2. Heard the learned counsel for the petitioners as well as the 1st respondent-State represented by the Public Prosecutor, before admission and before ordering any notice to the 2nd respondent and perused the material on record.

3. The above calendar case is an out come of the report of the *de facto* complainant/2nd respondent in Crime No.12 of 2014 registered by Mellachervu Police Station of Nalgonda District and after investigation from the final report filed, the learned Magistrate has taken cognizance.

4. It is the contention of the learned counsel for the petitioners that the report given and calendar case filed is a counter blast to O.P.No.26 of 2014 for restitution of conjugal rights under Section 9 of the Hindu Marriage Act against the 1st petitioner/A.1 herein by the 2nd

respondent. A divorce petition copy not even filed to know what the date of such petition was and if it is prior to filing of the police report registered on 05.01.2014. Needless to say, if not, after service of notice in the said restitution of conjugal rights O.P. to say by any stretch of imagination even as a counter blast, but for that, there is nothing to say and no part-II C.D. even filed. Hence, the material falls short for this Court even to admit the application under Section 482 Cr.P.C. to quash the F.I.R. proceedings.

5. Accordingly, this criminal petition is disposed of giving liberty to the petitioners to move an application under Section 239 Cr.P.C. before the learned Magistrate, if there are no grounds to frame charges under Section 240 Cr.P.C. to seek discharge, the learned Magistrate there from to consider only from the prosecution material on own merits as laid down by the Apex Court in **State of Orissa v. Debendranath Padhi**^[1] and pass appropriate orders. Needless to say further, in the event of filing any application by the petitioners under Rule 37 of the Criminal Rules of Practice, the learned Magistrate shall hear and consider with necessary conditions to permit one of the accused to represent the other accused. Further remedy, if any, is left open to the petitioners.
6. Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

2nd September 2015.

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