

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.1143 of 2015

ORDER:

At the admission stage the following order is passed.

In this petition filed under Section 482 Cr.P.C., petitioner/A1 seeks for quashment of the proceedings in C.C.No.268 of 2014 on the file of Judicial Magistrate of First Class, Bichkunda, Nizambad District.

2) The private complaint filed by the complainant was taken cognizance by the Court and registered as C.C.No.268 of 2014 for the offences under Section 448, 497 and 506 IPC against A1 and A2. A1 is the wife of complainant. The allegations are that A1 committed adultery with A2 against the will and consent of complainant and he found them in a compromising mood on 20.04.2014 at 3 P.M. at his house.

3a) Denying the allegations, learned counsel for petitioner/A1 firstly argued that earlier the petitioner/A1 filed C.C.No.147 of 2013 on the file of Judicial Magistrate of First Class, Bichkunda against the complainant and others for the offence under Section 498A IPC and said case was ended in conviction. Later, she also filed M.C.No.11 of 2013 before the same Court which was ordered for payment of maintenance of Rs.2,500/- per month. Added to the above, she filed O.S.No.99 of 2014 on the file of Senior Civil Judge, Bodhan for partition of the properties and the complainant filed the present case only as a counter blast against those cases.

b) Secondly, he contended a case under Section 497 IPC is

not maintainable against a woman and in view of it, the proceedings are liable to be quashed. For the said proposition he relied upon the decision reported in ***W.Kalyani vs. State through Inspector of Police and another***^[1].

5) This Court finds force in the legal proposition submitted by learned counsel for petitioner. Adultery case under Section 497 IPC can be proceeded against a man alone but not against a woman. This point has been reiterated by Apex Court in the cited decision. It was held thus:

6) In view of clear legal position, continuation of proceedings against the petitioner/A1 who is the wife of complainant, would amount to abuse of process of law.

7) Accordingly, this Criminal Petition is allowed and proceedings in C.C.No.268 of 2014 on the file of Judicial Magistrate of First Class, Bichkunda, Nizambad District insofar as A1 is concerned are quashed.

As a sequel, Miscellaneous Petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 03-03-2015

Murthy

^[1] (2012) 1 SCC 358