

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL PETITION No.12436 OF 2014

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ORDER:

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This Criminal Petition is filed by the accused No.1 to 4 invoking the provision under Section 482 of Cr.P.C. seeking to quash the proceedings in C.C.No.1407 of 2014 pending on the file of II Additional Junior Civil Judge-cum-XIX Metropolitan Magistrate, Kukatpally at Miyapur, Cyberabad.

The second respondent herein is the de facto complainant. The first petitioner is her husband, second petitioner is the mother, third petitioner is the sister and fourth petitioner is the uncle of first petitioner. The allegation against the petitioners herein is that they have forcibly taken the custody of child, who is the son of first petitioner and second respondent.

Heard and perused the material available on record.

There are matrimonial disputes between the first petitioner and second respondent. This Court is of the view that since the first petitioner is the natural guardian of the child being his father, taking the custody of the child will not amount to offence under Section 363 IPC. If at all there is any grievance by the second respondent she is at liberty to file an application seeking custody of the child. In view of the same, continuation of the impugned proceedings against the petitioners herein for the act of taking custody of the child would amount to misuse of process of law and the impugned proceedings are liable to be set aside.

In the result, the Criminal Petition is allowed and the impugned proceedings in C.C.No.1407 of 2014 pending on the file of II Additional Junior Civil Judge-cum-XIX Metropolitan

Magistrate, Kukatpally at Miyapur, Cyberabad are hereby
quashed as against the petitioners herein.

Consequently, miscellaneous petitions, if any, pending,
shall stand closed.

JUSTICE RAJA ELANGO

22.02.2016

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