

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.14491 of 2016

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. to quash FIR No.18 of 2016 on the file of Police Station, Women Police, Visakhapatnam, pending on the file of I Additional Chief Metropolitan Magistrate, Visakhapatnam.

It is the case of the petitioner/A.1 that *de facto* complainant—Majji Lakshmi is his wife and she filed a complaint before Women Police, Visakhapatnam, contending that she married the petitioner and they were blessed with two daughters, but the petitioner allegedly deserted the *de facto* complainant and staying at Rajahmundry by marrying another woman and this fact came to the *de facto* complainant's notice when her daughter was sent to Rajahmundry, who was kept in a separate house while living with other woman in another house.

On a careful perusal of the record, the allegations made in the complaint dt. 26.02.2016 would not attract the offence under Section 498-A IPC *prima facie* since the allegations made in the complaint would not fall under any

of the Clause of 498-A IPC explanation except making allegations that the petitioner sold tailoring machine provided by the father of *de facto* complainant and shifted his residence to Rajahmundry and did not provide food to her and failed to pay Rs.5000/- as agreed by him.

However, the learned counsel for petitioner submitted that the petitioner is aged 60 years and he appeared before police in pursuance of the Notice issued under Section 41-A of Cr.P.C., and extend his cooperation for completion of entire investigation, but still the Police are making efforts to arrest the petitioner despite extending his maximum cooperation for completion of investigation.

Learned Public Prosecutor appearing for the State of Andhra Pradesh contended that if the alleged overtacts would not attribute to Section 498-A of IPC, they may take steps to change the section of law before the Concerned Court by filing a Memo, but that itself is not a ground to quash the proceedings at this stage as the investigation is not completed. However, requested to permit the Police to complete the investigation while issuing necessary direction to them.

Taking into consideration the stage of the case and following the principle laid down by the Apex Court in *Joginder's Kumar v State of Utter Pradesh and*

*others*¹, I find that it is not a fit case to quash the proceedings at this stage, but the Police are directed to follow the procedure prescribed in the judgment reported in *Arnesh Kumar V. State of Bihar and another*².

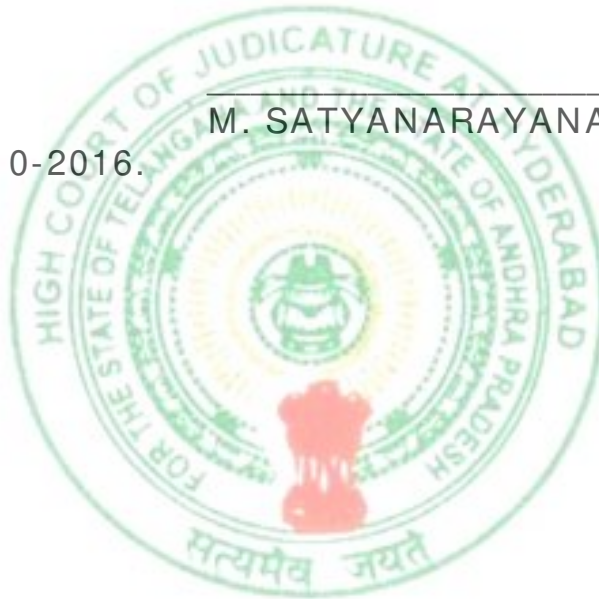
With the above observation, this Criminal Petition is disposed of.

As a sequel, miscellaneous petitions, if any, pending in this case, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 17-10-2016.

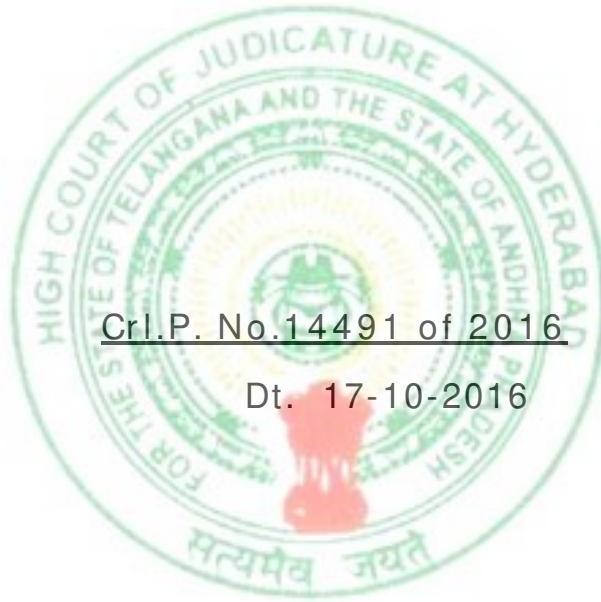
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¹ 1994 CrI.L.J.1981

² 2014(8) SCALE 250

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