HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.1693 of 2013

ORDER :

The petitioner/accused of C.C. No.150 of 2012 on the file of Judicial Magistrate of the First Class, Chodavaram by name V.Krishna Murthy filed the petition seeking to quash the proceedings in the calendar case supra taken cognizance by the learned Magistrate for the offences punishable under Sections 498-A, 323 and 506 I.P.C. The 1st respondent is the State-representing the Station House Officer, Buchayyapeta Police Station and the 2nd respondent is the defacto-complainant by name Smt.V.Radha, who claimed as wife of the petitioner/accused supra.

2) It is on her report dated 29.03.2012 to the 1st respondent/S.H.O, Buchayyapeta stating that she married the accused/petitioner on 18.12.2011 at Annavaram temple as per caste custom and at the time of her marriage, her parents gave Rs.2,00,000/- towards dowry, 5 tolas gold and sari samans and she joined her husband/accused. Further, from the day of their joining together, the accused has been beating and harassing including by abusing, also for additional dowry of Rs.5,00,000/- saying he is a steel plant employee and unable to bear with, she reached her parents and while

so on 20.03.2012 evening the accused came to her parents house saying he filed a petition before the Family Court against her and still why she was not coming and join him and he also consumed liquor and he beat her and while beating and throttling her, she was rescued by her mother and the neighbours and her mother was also pushed out by him from her attempts to interfere and he claimed that he killed his first wife and could manage with no case and left the place, hence to take action. Pursuant to which the crime is registered.

3) The alleged incident of beating or throttling her and was rescued by her mother and others not named, if any, was on 20.03.2012. Whereas the report was dated 29.03.2012 about eight days thereafter with no explanation in the very report, leave about her marriage with accused in saying the 1st wife of accused died and she was given in marriage to the accused later on 18.12.2011 and in claiming she joined her husband, further she was beating and ill-treating and she left. She did not state any specific instances and as to when she left his company in the said report. It is not even her case earlier she has given any police report for the alleged matrimonial ill-treatment or cruelty. The quash petition material shows including from the investigation material that the defacto-complainant was wife of one G.Jagadeeswara Rao. He filed a divorce O.P against

the defacto-complainant under Section 13 of the Hindu Marriage Act and there was a Lok Adalat settlement covered by award dated 24.02.2006 before the Lok Adalat conducted by learned Senior Civil Judge, Chodavaram along with a Social Worker at Chodavaram in O.P. No.18 of 2005. The police having registered the crime and in the course of investigation, examined the defacto-complainant/L.W-1 besides five others by name T.Sureedamma, Bheemaraju, B.Ramulu, S.Durga and R.China Venkama Naidu of whom four of the witnesses stated of the alleged occurrence they witnessed about accused beating the complainant by came to her mother's house, where the defacto-complainant was staying. It only makes out a case for the offence under Section 323 I.P.C, at best and there is no case pursuant to which the offence punishable under Section 498-A I.P.C. Even he came in the attempt to bring her back saying despite he filed a petition for restitution she was not joining him. Thus, the final report filed and cognizance taken by the learned Magistrate without perusal of the material, for the offence under Section 498-A and 506 I.P.C is unsustainable but for the offence punishable under Section 323 I.P.C.

4) Accordingly and in the result, the petition is allowed by quashing the proceedings in C.C. No.150 of 2012 on the file of Additional Judicial Magistrate of the

First Class, Chodavaram to the extent of taking cognizance for the offences punishable under Sections 498-A and 506 I.P.C by retaining the offence punishable under Section 323 I.P.C. Miscellaneous petitions pending, if any, shall stand closed.

DR.JUSTICE B.SIVA SANKARA RAO

Dt. 23.03.2016
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