

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL PETITION No.4173 OF 2016

ORDER:

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This petition is filed by the petitioner-accused No.1 under Section 482 Cr.P.C. seeking to quash the proceedings against her in Crime No.95 of 2016 on the file of Chirala I-Town Police Station, Prakasam District.

Heard and perused the material available on record.

The offence alleged against the petitioner is punishable under Section 497 r/w.34 IPC. The case of the de facto complainant is that his marriage was performed with the petitioner, who is a widow and had one daughter, in the year 2005. They blessed with a male child. Subsequently, differences arose between them and the petitioner is living separately with another person i.e. A2. She filed criminal cases also against the de facto complainant.

Learned counsel for the petitioner submitted that the petitioner is innocent of the offence alleged against her and she was falsely implicated in the case and that as per the provisions of Section 497 IPC, the wife cannot be prosecuted for the said offence.

Section 497 IPC reads as under:

497. Adultery:- Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amount to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. IN such case the wife shall not be punishable as an abettor."

A perusal of the above provision makes it clear that for the offence under Section 497 IPC, the wife cannot be prosecuted as an abettor. In that view of the matter, this Court is of the view that the petitioner cannot be prosecuted for the offence under Section 497 IPC and the

proceedings against the petitioner in the above crime are liable to be quashed.

Accordingly, the Criminal Petition is allowed and the proceedings against the petitioner – A1 in Crime No.95 of 2016 on the file of Chirala I-Town Police Station, Prakasam District are hereby quashed. Consequently, miscellaneous petitions pending, if any, shall stand closed.

RAJA ELANGO, J

March 28, 2016.
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