

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.2378 of 2017

ORDER:

The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') requesting to quash the order, dated 31.01.2013, in Calendar Case No.276 of 2016 passed by the learned Judicial Magistrate of First Class, Gajwel, ordering summons to the petitioner herein. Originally, the petitioner was shown as accused No.5 in the First Information Report (FIR), but later, when the charge sheet was filed, the Investigating Officer has not charged him altogether on the ground that he resides in a different place and there was evidence worth the name to show the complicity of accused Nos.1 to 4 in the commission of the offences alleged.

2. Heard Sri S.K.Rizwan Ali, learned counsel for the petitioner and the learned Additional Public Prosecutor for the State of Telangana.

3. The submission of the learned counsel for the petitioner is that while the calendar case was pending, accused Nos.1 to 4 entered into compromise and this Court in CrI.P.M.P.No.16404 of 2014 in CrI.P.No.14516 of 2016 recorded compromise between the *de facto* complainant and accused Nos.1 to 4 and allowed the said petitions. It is his submission that when the Investigating Officer laid the charge sheet assigning reasons against accused Nos.1 to 4 for the offences punishable under Sections 498-A and 325 of the Indian Penal Code, 1860 and Sections 3 and 5 of the Dowry Prohibition Act, 1961 and did

not charge any of the offences against the petitioner herein. The learned counsel drawn the attention to the docket order passed by the learned Magistrate on 31.01.2013, which is now questioned. The docket order reads thus:

“Taken cognizance against Accused Nos.1 to 4 and Racharla Anjaiah for the offences under Sections 498-A and 325 of the IPC and sections 3 and 5 of the D.P.Act. Issue summons to Racharla Anjaiah.”

4. *Ex facie*, the order reflects that the learned Magistrate has not mentioned the relevant details, basing on which summons ought to be issued to a person accused of an offence or offences when the Investigating Officer has arrived at the conclusion basing on the evidences collected by him, but the petitioner herein cannot be charged as there is no material at all. When the learned Magistrate ordered summons, he ought to assign reasons as to why ordering summons were necessitated. For two reasons i.e., *firstly*, compromise being effected between the *de facto* complainant and accused Nos.1 to 4, recorded by this Court quashing the proceedings so far as accused Nos.1 to 4 are concerned and *second*, ordering summons to the petitioner, without application of mind, the request herein has to be acceded to.

5. Accordingly, the criminal petition is allowed quashing the proceedings in C.C.No.276 of 2016 on the file of the Judicial Magistrate of First Class, Gajwel, against the petitioner.

6. As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition stand closed.

A. SHANKAR NARAYANA, J

March 23, 2017.

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