

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.8073 of 2017

ORDER:

The petitioners are A.4 and A.5 of C.C.No.278 of 2012 on the file of Judicial First Class Magistrate, Kovur, where the learned Magistrate taken cognizance for the offences punishable under Section 498-A and 494 of IPC and Sections 3 and 4 of Dowry Prohibition Act, which is outcome of crime No.52 of 2012, on the report of the 2nd respondent-defacto complainant no other than wife of the petitioner.

The police after investigation filed final report mentioning that no particulars like name of the person whom the petitioner married second time, date, time, venue and if any, of the marriage, were disclosed during investigation to attract section 494 IPC, hence the section 494 IPC is deleted and filed final report only for the Sections supra for which offences the learned Magistrate taken cognizance. At the post cognizance stage, the quash petition is filed.

The petitioners can raise all these contentions before the trial Court at the stage of hearing before charges, if necessary by filing application under Section 239 Cr.P.C. and it is also left open to file application under Rule 37 of the Criminal Rules of Practice to consider after hearing for one to represent others.

In view of the order of this court dated 31.07.2017 in CrI.P.No.6493 of 2017 relying upon the latest two Judge Bench expression of the Apex Court dated 27.07.2017 in CrI.A.1265 of 2017 (SLP (CrI.) No.2013 of 2017 in **Rajesh Sharma & Others Vs. State of U.P. & Another**), the matter requires to be referred by the learned trial Magistrate to the Committee to be constituted for report to consider any reconciliation and settlement and if it is not settled, then to proceed with trial on merits.

Accordingly and in the result, the Criminal Petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 04.09.2017
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