

HON'BLE SRI JUSTICE Dr. B. SIVA SANKARA RAO

CRIMINAL PETITION No.9296 of 2010

ORDER:

The petitioners are accused Nos.1 to 3 of C.C.No.76 of 2008 on the file of I Additional Judicial Magistrate of First Class, Tenali, Guntur District, where the learned Magistrate has taken cognizance for the offence under Section 498-A IPC, which is outcome of report of the 2nd respondent-defacto complainant.

Among the 3 accused, A.1 is the husband of the defacto complainant and A.2 & A.3 are parents of A.1. The marriage of the defacto complainant was performed on 23.12.2005 at Chenchupeta of Tenali. The police report averments and the police final report from examination of Lws.1 to 6 is that the defacto complainant and her parents and the 2 so called marriage elders and another circumstantial witness in nutshell are that besides allegation against A.1 husband by generalizing A.2 & A.3 that A.1 started harassing her physically and mentally with A.2 & A.3 by demanding to bring additional dowry from her parents and because of their weak financial position she tolerated and put up, however they made to see that she will leave the marital house and treated as slave and compelling to do house hold works, cooking, cleaning bathroom with acid and not giving required money for the minimum meals of her and however they took food at hotels by not allowing her and by not even allowing her to sleep on cot and by blaming that she did not bring any lanchanams and used to beat. That in March 2006 when LW.2-father of LW.1 visited her and gave Rs.15,000/- to purchase household articles and requested the accused to look after her properly, however after few days accused

called LW.2 stating LW.1 is facing visionary problem and advised to take her to get laser treatment and LW.2 expressed inability to meet the expenditure, the accused sent her to her parents and she went to Hyderabad and got coaching for B.Ed. Venus Institution and returned and also that whenever she requested the accused to take her to maternal home, the accused were not responding. There was a meeting arranged at Vykuntapuram Temple, where A.1 even demanded his wife LW.1 to sign on divorce papers as he is going to USA and his family will shift to Hyderabad and so saying he went away. LW.2 father of LW.1, Lws.4 to 6 convinced the accused and went to the house of A.1 and asked about his behaviour and abortion of LW.1, however all admitted before the elders of their wrong and assured to look after her properly and taken back to the marital home on 16.06.2006 with saree and lanchanams and even after arrival they started harassing being she is character less and developed illegal contacts with somebody and forced to sign on papers for divorce and A.1 also took her to a lawyer by name Jayaram of Vijayawada and forced to sign on papers and on the advice of said lawyer they were tortured her and blaming her as HIV patient and as if attained pregnancy through somebody by treating as slave. Leave about said version of LW.1 supported by that of Lws.2 & 3, Lws.4 to 6 the circumstantial witnesses stated that they came to know LW.1 from the situation about the ill-treatment she was meeting and they went to convince A.1 and his parents and when they questioned about LW.1 was aborted in February 2006 by accused and making her not to sleep on cot, but on floor and complainant has visionary problem for nothing when they questioned they assured to treat her well and

even she was sent back to the marital home, they reflected their old conduct.

Having regard to the above, once there is prima facie accusation from which the trial Court framed the charge against the accused under Section 498-A r/w 34 IPC, from this there is nothing to quash the proceedings, but for direct to face trial to put forth all their defence during trial. Needless to say because of difficulty expressed for all the 3 to attend the Court, they are entitled by virtue of this order to move the trial Court for one to represent others to file application under Rule 37 of Criminal Rules of Practice, for the learned Magistrate to consider and permit. Needless to say in view of the latest two Judge Bench expression of the Apex Court dated 27.07.2017 in Crl.A.1265 of 2017 (SLP (Crl.) No.2013 of 2017 in **Rajesh Sharma & Others Vs. State of U.P. & Another**), this is also a fit case to direct the trial Judge to refer the parties to any possible settlement and if not fructified, to direct them to face trial.

With the above observations, the Criminal Petition is disposed of.

Consequently, miscellaneous petitions, if any shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 06.10.2017
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