

HONOURABLE SRI JUSTICE N. BALAYOGI

CRIMINAL PETITION No.6651 of 2011

ORDER:

1. This petition is filed by the petitioner under Section 482 Cr.P.C. seeking to quash the proceedings in CrI.M.P.No.2004 of 2011 on the file of the Additional Judicial First Class Magistrate, Sangareddy, Medak District.

2. The contention of the petitioner is that the 1st respondent initiated proceedings against the petitioner under Section 3(1)(2)(3) of the Muslim Women (Protection of rights on divorce) Act, 1986 and that according to Section 3 of the Act, the rights of the divorced muslim women are protected and that a woman, who is still under the wedlock of her husband, is not entitled to invoke any provisions of the Act and therefore, the present petition is not maintainable.

3. The learned Counsel for the 1st respondent contended that the present petition is premature one and is not maintainable under law.

4. A perusal of the record goes to suggest that the 1st respondent filed the petition under Section 3(1)(2)(3) of the Muslim Women (Protection of Rights on Divorce) Act, 1986 on the ground that the petitioner necked out her from the house and he has not shown any interest to take her back. In the said petition, the 1st respondent has shown herself as the wife of Jaweed Khan and in the first paragraph, she stated that she is the legally wedded wife of the petitioner herein and their marriage took place on 1.7.2009.

5. It is not in dispute that the marriage between the petitioner and the 1st respondent is still subsisting. The preamble of the Act itself shows that an Act to protect the rights of Muslim Women who have been divorced by

or have obtained divorce from their husbands and to provide for matters connected therewith or incidental thereto. In view of the very purpose and the provisions of the Act and in view of the fact that the marriage between the petitioner and the 1st respondent is still subsisting, no proceedings under the said Act against the petitioner can be maintained.

5. Accordingly, the Criminal Petition is allowed quashing the proceedings against the petitioner in Crl.M.P.No.2004 of 2011 on the file of the Additional Judicial First Class Magistrate, Sangareddy. Consequently, miscellaneous petitions pending, if any, shall stand closed.

Date: 12th October, 2017
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JUSTICE N. BALAYOGI

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