

HON' BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.7588 of 2017

ORDER:

The petitioners are A.1 and A.2 of C.C.No.476 of 2016 on the file of the V Additional Judicial First Class Magistrate, Kakinada, where the learned Magistrate taken cognizance for the offences punishable under Sections 498-A and 323 r/w 34 IPC and Sections 3 & 4 of Dowry Prohibition Act, 1961, which is outcome of crime No.53 of 2016 of Mahila Police Station, Kakinada, on the report of the 2nd respondent-defacto complainant no other than wife of the 1st petitioner/ A.1.

The police after investigation filed final report and the learned Magistrate taken cognizance for the above offences. At the post cognizance stage, the quash petition is filed.

L.W.8-Dr.B.Srinivasa Rao opined that there are no any physical injuries and what *de facto* complainant stated is kicked and beat with hands, thereby, there are no physical injuries. Hence, it is also a fit case to refer the matter by the learned trial Magistrate to the Committee to be constituted for report to consider, as per guidelines of the 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), and if it is not settled, then to proceed with trial on merits.

Accordingly and in the result, the Criminal Petition is disposed of. The petitioners can raise all their 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.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 12.09.2017
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