

**HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA**

**CRIMINAL PETITION No.15956 OF 2016**

**ORDER:**

The present Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973, requesting to quash the proceedings in C.C. No.767 of 2011 on the file of II Additional Chief Metropolitan Magistrate, Vijayawada, arising out of Crime No.91 of 2010 of Gannavaram Police Station, Vijayawada City.

2. The petitioners, who are arraigned as accused Nos.1 to 6 viz., Sunkara Sai Dileep, Kanaka Venkata Appa Rao, Lakshmi Tulasi, Paidi Tallamma, Sai Bharat and Sai Ramya, respectively, alleged to have committed the offences punishable under Sections 498-A and 109 of the Indian Penal Code, 1860 (IPC). Respondent No.1 herein viz., Sunkara Bhuvaneswari Devi, who is wife of petitioner No.1, is the *de facto* complainant.

3. Heard Sri T. Pradyumna Kumar Reddy, learned counsel for the petitioners, and the learned Additional Public Prosecutor for the State of Andhra Pradesh, and perused the material on record.

4. Learned counsel for the petitioner would submit that there was compromise between the *de facto* complainant and her husband in the related matters. They filed O.P. No.712 of 2010, on the file of Judge, Family Court - cum - IV Additional District and Sessions

Judge, Vijayawada, under Section 13(B) of the Hindu Marriage Act, 1955 (for short 'HM Act') by way of amendment through the orders in I.A. No.520 of 2012, since, originally, the said O.P. was filed by petitioner No.1 for divorce under Section 13(1) (ia) of HM Act, and on mutual consent, divorce was obtained by them. Photostat copies of the said order and decree, dated 16.05.2012, are filed by the petitioner along with the material papers for perusal.

5. Learned counsel submits that even D.V.C. No.1 of 2012 before the learned Judicial Magistrate of First Class, Gannavaram was compromised before the Chairman, Mandal Legal Services Authority - cum - Junior Civil Judge, Gannavaram, which passed the award, dated 17.05.2012, observing that petitioner therein, who is *de facto* complainant herein, filed a memo stating that the matter was adjusted out of Court and requested for dismissal of D.V.C. as not pressed and recording the same that the matter was adjusted out of the Court and not pressed by the petitioner, dismissed as not pressed since adjusted out of Court.

6. It appears, only in the present C.C. No.767 of 2011, the *de facto* complainant has not been appearing. The learned counsel would also submit that the *de facto* complainant was remarried and staying along with her husband elsewhere and that has been the reason why, the present Calendar Case, which is of the year 2011, is not disposed of by the learned Magistrate.

7. The learned Additional Public prosecutor would not oppose the request of the petitioners, having gone through the orders in divorce petition and D.V.C. It is true, keeping the present Calendar Case pending, which is of the year 2011, when other related matters have been resolved between the parties as referred to above, certainly, would amount to abuse of process of law, in case, the trial takes place and continues without there being any fruitful result.

8. In that view of the matter, the Criminal Petition is allowed, at the admission stage itself, quashing the proceedings in C.C. No.767 of 2011 on the file of II Additional Chief Metropolitan Magistrate, Vijayawada, against all the petitioners.

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

**March 15, 2017.**

PV

**A. SHANKAR NARAYANA**