

HON' BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.7299 of 2017

ORDER:

Heard learned counsel for the petitioner/ A1 of C.C.No.137 of 2017 on the file of the II Additional Judicial First Class Magistrate, Kovvur, where learned Magistrate taken cognizance for the offences punishable under Sections 498-A, 497, 323, 506 r/w 34 I.P.C and also learned Public Prosecutor representing the State before ordering notice to respondent No.2. At the post cognizance stage, the quash petition is filed.

As per the F.I.R. though police filed final report, showing Section 497 I.P.C. also, which the learned Magistrate cannot take cognizance, but for, on private complaint and also by virtue of bar under Section 198 Cr.P.C. So far as the offence under Section 323 I.P.C. is concerned, even from the police final report, there is no medical examination to say any physical injuries. Hence, this is also a fit case to refer within the 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). Hence, 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.

The petitioner 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.

Accordingly, the Criminal Petition is disposed of.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 29.08.2017
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