

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.731 OF 2017

ORDER:

The present petitioners herein are arraigned as accused Nos.2 to 5 in Calendar Case No.1511 of 2010 on the file of the Judicial Magistrate of First Class, Mylavaram, Krishna District. They request to quash the proceedings in the said Calendar Case under Section 482 of the Code of Criminal Procedure, 1973.

2. The petitioners herein and accused No.1 alleged to have committed the offences punishable under Sections 498-A, 323 and 506 read with 34 of the Indian Penal Code, 1860 (for short 'IPC').

3. Heard Sri G. Elisha, learned counsel for the petitioners and learned Additional Public Prosecutor for the State of Andhra Pradesh.

4. The learned counsel for the petitioners would submit that the marriage of respondent No.2 with accused No.1, who is no more, had taken place on 09.07.1997; accused No.2 became mentally challenged in the year 2007 and died on 31.12.2009; because he became mentally challenged, respondent No.2 - *de facto* complainant left him voluntarily and no harassment at all was caused to her by the petitioners herein or deceased accused No.1, who is her husband; and the offences under Sections 323 and 506 read with 34 of IPC would

not arise at all as no allegations touching these offences have been mentioned in the complaint.

i) It is also his submission that the Calendar Case has been pending for the past nearly a decade; the *de facto* complainant has not made her appearance at all on any one of the adjournments and unnecessarily the petitioners herein are being dragged to the Court; the petitioner Nos.1 and 2 are sufficiently old more than 70 years and petitioner No.2 is unwell and she was admitted in NRI Hospital, near Vijayawada and, therefore, sought to quash the proceedings.

5. The learned Additional Public Prosecutor resisted the request raising the grounds mentioned in the charge sheet and in Section 161 of Cr.P.C. statements.

6. Originally, the Calendar Case relates to the year 2007 and later, on being shifted to Judicial Magistrate of First Class, Mylavaram, Krishna District, on its establishment, it was renumbered as Calendar Case No.1511 of 2010. Certainly, the delay cannot be a ground to quash the proceedings in the Calendar Case. At the most, a direction can be given to the learned Magistrate to expedite the trial and conclude the same without further postponing, more so, when accused No.1 himself is not available as he died in the year 2009 itself.

7. So far as other submissions that the allegations would not attract the offences punishable under Sections 323 and 506 read with 34 IPC are concerned, it can only be examined during trial and, therefore, it is a case, where a direction requires to be given to the learned Magistrate to dispose of the matter by giving timeline. Therefore, the learned Judicial Magistrate of First Class, Mylavaram, Krishna District, is directed to dispose of the C.C. No.1511 of 2010, as expeditiously as possible, preferably within a period of six (6) months from the date of receipt of a copy of this order.

8. The Registry is also directed to communicate a copy of this order to the learned Magistrate within three days.

With the above direction, the present Criminal Petition is disposed of at the admission stage itself. As a sequel thereto, Miscellaneous Petitions, if any, pending in the petition, stand closed.

A. SHANKAR NARAYANA, J

January 31, 2017.

Note: Furnish C.C. of this order by tomorrow
(B/O) Mgr