

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.3219 of 2017

ORDER:

The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973, to quash the First Information Report in Crime No.43 of 2017 of Tekkali Police Station, Srikakulam District.

The petitioners, who are arraigned as accused Nos.1 to 5 and 7 in the aforesaid crime, alleged to have committed the offence punishable under Section 498-A IPC.

Heard Sri K.Bheema Rao, learned counsel for the petitioners, and the learned Additional Public Prosecutor for the State of Andhra Pradesh.

The main submission of the learned counsel for the petitioners is that even looking at the complaint averments, it cannot be viewed that there is wife and husband relationship between the *de facto* complainant and the 1st petitioner and, even otherwise, the allegations in the complaint would not make out a case for the offence punishable under Section 498-A IPC.

Learned Additional Public Prosecutor for the State of Andhra Pradesh, though, admits that the complaint would not show the relationship of wife and husband between the *de facto* complainant and the 1st petitioner, it is his submission that the crime is at the

investigation stage and, therefore, sought to reject the request of the petitioners.

Perused the complaint. The averments made by the 2nd respondent in the complaint are that she is a resident of Bhavani Nagar, Tekkali Town, and eking out livelihood by running a flourmill in Temburu Road, Tekkali; the 1st petitioner is known to her for the last seven years; her husband and children left her and she is living alone; she is residing in Rotary Nagar along with the 1st petitioner and there is living relationship between them; on 10.02.2017, the 1st petitioner – Basavala Sudarsan Rao came to her house in a drunken state and harassed her physically and mentally and thereafter, he went to his parents' house; again on 11.02.2017, he along with his family members, who are the petitioners herein, and another family member came to her house and scolded her in filthy language and harassed her physically and mentally.

Learned counsel for the petitioners would submit that the *de facto* complainant is in the habit of making complaints and as many as 30 complaints have been filed by her. He has given the details of those complaints, which were obtained from the Station House Officer, Tekkali Police Station, under the Right to Information Act.

Be that as it may, the complaint averments *ex facie* show that there is no marital tie between the 1st petitioner and the *de facto*

complainant and there is only a living relationship between them, and since the marriage between the *de facto* complaint and her husband is not broken by operation of law and her husband and children left her, certainly, it is difficult to hold that the offence punishable under Section 498-A IPC would attract, as the main ingredient to clutch the offence under Section 498-A IPC being the relationship of the husband and wife between the parties. Except the offence under Section 498-A IPC, no other offences are alleged against the petitioners. Therefore, the request herein can be acceded to.

Accordingly, the Criminal Petition is allowed quashing the First Information Report in Crime No.43 of 2017 of Tekkali Police Station, against the petitioners herein.

Miscellaneous Petitions, if any, pending in this petition, shall stand closed.

A. SHANKAR NARAYANA, J

April 20, 2017.

v v