

HON' BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.7673 of 2010

ORDER :

Heard learned counsel for the petitioner/ accused of Crime No.62 of 2010 dated 18.04.2010 of Dabeerpura Police Station, Hyderabad District, registered for the offence punishable under Section 498-A I.P.C on the report of respondent No.2/ de facto complainant and learned Public Prosecutor representing the State and even notice ordered to respondent No.2 and served, she failed to appear. Hence, taken as heard and perused the grounds urged in the quash petition and the F.I.R. contents and the other material on record.

The very report from which the crime is registered itself speaks since 1995 the wife and husband were not living together and in 1995, the husband taken away four children from her company and she filed Section 498-A I.P.C. case and the crime was registered from her report by the C.C.S Women P.S and later she compromised and the children were restored. However, in saying subsequent to the so called compromise, she gave birth to two more children and they stayed together upto 2003 at Osmanpura, Hyderabad at D.No.22-2-369/ 1 of Hussaini Mohalla, Noorkhan Bazar and one month back to the said report

of her dated 18.04.2010, she went to his house with the children and requested to provide shelter and he behaved cruelly towards her and thrown away from the house and thereby, requested to take action against him for neglecting her by not providing shelter to her and to the children and harassing mentally. From the very report, even after 2003, they were living separately and only in March, 2010 she tried to step into his house, he prevented and sent her and where she alleged cruel attitude and no case *prima facie* made out to sustain the accusation from the said report itself, leave about, she earlier filed in 1995 a Calendar Case for the offence punishable under Section 498-A I.P.C. and later withdrew and in the material relied on as part of the quash petition averments urged shows, affidavit filed by the de facto complainant herein before the learned Metropolitan Court-cum-Mahila Court in Crime No.18 of 1996 saying the accused is petitioner's ex-husband and out of grave and sudden provocation she gave report in 1995 for taking away four children and he later restored the children to her and with the intervention of elders, the disputes were settled and he provided iddat period maintenance also and she is not interested in pursuing the matter and informed the police about the compromise. However, they filed charge sheet. That is the sum

and substance of the affidavit dated 22.01.1996. That itself clearly refers the petitioner as ex-husband and that belies from the affidavit filed before the Court of any relation subsisting after 1996, much less, to claim in 2003 they lived together or begot two children, in the absence of pleading that after first divorce there was any ceremony of marriage undertaken. Thus, the very crime proceedings are nothing but abuse of process and thereby, the crime proceedings are liable to be quashed.

Accordingly, the Criminal Petition is allowed quashing the proceedings in Crime No.62 of 2010 dated 18.04.2010 of Dabeerpura Police Station, Hyderabad District.

Miscellaneous petitions pending, if any, in the Criminal Petition shall stand closed.

Date: 10.08.2017
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Dr. B. SIVA SANKARA RAO, J

