

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.444 OF 2015

AND

CRIMINAL PETITION No.2747 OF 2017

COMMON ORDER:

Criminal Petition No.2747 of 2017 is filed by the accused No.1 and Criminal Petition No.444 of 2015 is filed by the accused Nos. 2 & 3 respectively, in C.C. No.245 of 2012 on the file of Judicial Magistrate of First Class, Rayadurg, Anantapur District, under Section 482 of the Criminal Procedure Code, 1973 (for short, 'the Code') requesting to quash the proceedings in the aforesaid Calendar Case.

2. The petitioners alleged to have committed the offence punishable under Section 498-A of IPC and Sections 3 & 4 of Dowry Prohibition Act.

3. Heard Sri P. Narahari Babu, the learned counsel for the petitioners and the learned Assistant Public Prosecutor for the State of Andhra Pradesh, and Sri M. Subba Reddy, the learned counsel for the 2nd respondent/*de facto* complainant.

4. The petitioner in Criminal Petition No.2747 of 2017, who is accused No.1, is admittedly the husband of the 2nd respondent/*de facto* complainant.

5. The learned counsel for the petitioners would submit that a false case is foisted against the petitioners only to harass them. His

submission is that the husband/petitioner/accused No.1 in fact filed O.S. No.4 of 2013 on the file of Principal Family Judge at Bellary for restitution of conjugal rights and even he has filed Execution Petition. The learned counsel for the petitioners unable to say whether Execution Petition was terminated or still pending.

6. The learned counsel for the petitioners also submits that there are three occasions that the compromise was effected. Firstly, on 11.10.2015 by mutual agreement through the elders, but it was resiled later, and for the second time through the intervention of Representatives of the People with certain conditions, where copy of the Joint Affidavit is also filed and amounts were deposited to the tune of Rs.6 Lakhs by way of Fixed Deposit Receipt (FDR) but later withdrawn, and cash was paid, third occasion, through the intervention of the Legal practitioners of Bar Association on 11.12.2015. Still, there is no end for resolving disputes between the parties and, therefore, it is nothing but abuse of the process of law in prosecuting the present Calendar Case.

7. Sri M. Subba Reddy, the learned counsel for the 2nd respondent/*de facto* complainant strongly resisted the request of the petitioners contending that the mother-in-law of the *de facto* complainant has been proclaiming that even if compromise is entered into and she joins her husband by keeping her for sometime, they would send her away and there has been severe ill treatment in their hands, suffered by the *de facto* complainant.

8. It is no doubt true, certain copies of documents have been filed. But, one thing is certain that all these factors relate to disputed questions of fact, in which case unless trial is held in the Calendar Case the truth cannot be arrived at. Copies of Joint Affidavit, Mutual Agreement, Memorandum of Understanding are all required to be confronted to the *de facto* complainant, which would occur only when the *de facto* complainant steps into the witness box. These aspects, certainly, cannot be gone into and this Court cannot embark upon roving enquiry while dealing with a petition under Section 482 of the Code. Therefore, both the Criminal Petitions are dismissed directing the learned Judicial Magistrate of First Class, Rayadurg, to dispose of C.C. No.245 of 2012 on his file as expeditiously as possible not later than six months from the date of receipt of a copy of the order.

9. With the above observation, both the Criminal Petitions are dismissed.

As a sequel thereto, miscellaneous petitions if any pending in the both Criminal Petitions shall stand closed.

A.SHANKAR NARAYANA

Dt. 19.04.2017
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