THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL PETITION No.3021 of 2017

ORDER:

The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code'), requesting to quash the proceedings in Calender Case No.76 of 2016 on the file of the Judicial Magistrate of First Class at Bodhan, erstwhile Nizamabad District.

The petitioner, who is arraigned as accused No.7 in the aforesaid Calender Case, alleged to have committed the offences punishable under Sections 498-A and 406 IPC and Section 4 of the Dowry Prohibition Act.

Heard Ms. Farhat Firdouse representing Sri Khaja Manzoor Ali, learned counsel for the petitioner, and the learned Additional Public Prosecutor for the State of Telangana on behalf of the 1st respondent.

Learned counsel for the petitioner makes two main submissions. First is, an omnibus allegation is levelled against the petitioner. Second, the petitioner is not a relation of the other accused.

Though, the learned counsel for the petitioner has drawn the attention to the statement made by the *de facto* complainant, who is the wife of accused No.1, to support her submission that the petitioner is not a relation of the other accused, however, the statements of the father of the *de facto* complainant and one Abdul Rafe would show that the petitioner is a relation of the husband of the *de facto* complainant and appears to have uttered that there is nothing to talk by attending a

panchayat. In such an event, unless full-fledged trial takes place, it cannot be said whether the petitioner is a relation of the other accused, or not. The submission as regards omnibus allegation, the learned counsel for the petitioner places reliance on the decisions of this Court in **Shaik Kusrouddin and others v. State of A.P. and another**[1] and **Movva Raja Ram v. State of Andhra Pradesh and another**[2] and also the decision of the Hon'ble Supreme Court in **Preeti Gupta v. State of Jharkhand**[3].

In the present case, it is not an omnibus allegation that is made against the petitioner that he instigated the other accused in demanding the *de facto* complainant to get additional dowry or harassing her, but there is further allegation that he uttered that there is nothing to talk by holding a panchayat or attending a panchayat. Thus, it cannot be viewed that if trial in the Calender Case takes place, it would amount to the abuse of process of law and, therefore, there is no merit in the present petition.

Learned counsel for the petitioner, however, makes a request to exempt the appearance of the petitioner, as he is a resident of Hyderabad and, deliberately, the Court at Bodhan was chosen by the *de facto* complainant.

The request of the learned counsel appears to be reasonable and, therefore, acceding to such a request, the petitioner's appearance in C.C.No.76 of 2016 on the file of Judicial Magistrate of First Class at

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[1] 2004 (2) ALD (Crl.) 195 (AP)
[2] 2013 (2) ALD (Crl.) 334 (AP)
[3] 2010 (6) SCJ 609

Bodhan, during trial is exempted, except on those dates when the learned Magistrate takes up the examination under Section 239 of the Code and also the examination under Section 313 of the Code.

Subject to the above, the Criminal Petition is dismissed at the stage of admission itself.

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

A.SHANKAR NARAYANA, J

Date: 17.04.2017
v v