

**HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA**

**CRIMINAL PETITION No.2398 OF 2017**

**ORDER:**

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed requesting to quash the proceedings in C.C.No.59 of 2016 on the file of Judicial Magistrate of First Class, Allagadda, Kurnool District.

2. Petitioners are arraigned as accused Nos.1 to 3 in the aforesaid Calendar Case. They alleged to have committed the offence punishable under Section 498A read with 34 I.P.C.

3. Heard Sri K. Sai Rama Murthy, learned counsel for the petitioners, and learned Additional Public Prosecutor for the State of Andhra Pradesh.

4. Learned counsel for the petitioners would plead innocence and false implication of the petitioners in the aforesaid Calendar Case. His submission has been that prior to filing of charge sheet, there was counseling and what all stated to respondent No.2 herein – *de facto* complainant was to join the conjugal society of petitioner No.1. Learned counsel has also drawn the attention of this Court to the last paragraph of the complaint lodged by respondent No.2 and, would submit that, in fact, petitioner No.1 is ready to take respondent No.2 to his society, but, some how, instead of resorting to making both of them to meet and reside together, surprisingly, charge sheet was filed.

That has been the submission made by the learned counsel for petitioners. Yet another submission has been, that the learned Magistrate has taken cognizance of the offence punishable under Section 498A I.P.C. alone, leaving the offences punishable under sections 3 and 4 of Dowry Prohibition Act, which are reflected in the charge sheet. Of course, this would not harm the petitioners, for the reason that, for the reasons best known to the learned Magistrate, he has neither clutched nor taken cognizance of the offences punishable under Sections 3 and 4 of the Dowry Prohibition Act.

5. So far as what has been transpired during counseling and the deliberations that went on are concerned, they can only be confronted to respondent No.2 when she deposes in Court, in case, that stage reaches. But, the same cannot be a ground, at this stage, to quash the proceedings in the present Calendar Case.

6. However, learned counsel for the petitioners would restrict the prayer to dispense with the presence of petitioner Nos.2 and 3 on the ground that petitioner No.3 is sufficiently old and petitioner No.2 is sister-in-law of petitioner No.1 residing at Hyderabad, but not at Dhone and there was no occasion for her to join in the commission of the offence alleged against her.

7. Be that as it may, only the appearance of petitioner No.2 can be dispensed with during trial in the aforesaid Calendar Case. Hence, the appearance of petitioner No.2 herein is dispensed with in the

aforesaid Calendar Case during trial, except on the dates when she is supposed to be examined under Section 239 of the Code and under Section 313 of the Code and also on other occasions where the learned Magistrate opines that her presence is absolutely necessary.

8. With the above concessions, the Criminal Petition is dismissed. Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

March 24, 2017.  
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**A. SHANKAR NARAYANA, J**

