

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.2376 of 2011

ORDER:

This petition is filed seeking for quash of the proceedings in MC.No.1 of 2011 on the file of the Judicial First Class Magistrate, Mydukur.

2. Heard the counsel for the petitioner, the counsel for respondents 2 and 3 and the learned Public Prosecutor, who takes notice for the first respondent.

3. The grounds on which the proceedings are sought to be quashed are that the marriage of the petitioner with the second respondent herein took place on 24.03.1985; she left the company of the petitioner in 1985 itself; she filed a complaint in the year 2008, seeking for prosecution against the petitioner, for the offence under Section 498-A of the Indian Penal code and the case ended in acquittal holding that the second respondent herein left the company of the petitioner. The other grounds are that she declared herself to be a widow and she is receiving pension from the Government.

4. In the considered opinion of this Court the finding in a criminal case shall not be a ground for quashing the proceedings in a maintenance case. The standard of proof in a criminal case is beyond reasonable doubt whereas in a civil case, preponderance of probabilities would suffice to prove a fact. As regard the next contention, which is a question of fact, certainly, if the second respondent herein is found to be entitled for maintenance, the said

fact would not disentitle her by itself. Hence, all those questions have to be decided while deciding the maintenance case on merits. Hence, this Court opines that it is not a fit case for quash of proceedings. However, it is made clear that the Court below shall not be influenced by any of the observations made herein and shall decide the case independent of the said observations.

5. Interim stay granted by this Court on 18.03.2011 in CrI.MP.No.2434 of 2011 shall stand vacated.

The criminal petition is dismissed. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

December 15, 2017
DSK

T. RAJANI, J

