

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.897 OF 2017

ORDER:

The present petition is filed to set aside the order, dated 21.10.2016, in CrI.M.P. No.4013 of 2015 in Calendar Case No.197 of 2015 on the file of the V Additional Judicial Magistrate of First Class, Rajahmundry, Andhra Pradesh, by exercising power under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code').

2. The petitioners are accused Nos.4 and 5 in the aforesaid Calendar Case. They, in fact, moved the learned Magistrate's Court for discharging them, by making an application under Section 239 of the Code. The learned Magistrate having dealt with the statements recorded under Section 161 of the Code, opined that there is *prima facie* material against both the petitioners, and thereby dismissed the discharge petition.

3. Heard Sri Parise Narasimhulu, learned counsel for the petitioners, and the learned Assistant Public Prosecutor for the State of Andhra Pradesh.

4. It is the submission of the learned counsel for the petitioners that the statements of witnesses recorded under Section 161 of the Code would only show a bald allegation of instigation by the petitioners and nothing more. It is his submission that even in the counter filed by the *de facto* complainant in F.C.O.P. No.641 of 2014,

which was filed by her husband, she, as respondent therein, did not mention any acts constituting harassment by the petitioners herein.

5. When the learned Magistrate on perusal of statements of witnesses recorded under Section 161 of the Code makes a definite observation that the said statements would speak that at the instigation of her mother-in-law and her brother-in-law, accused No.1 has harassed the *de facto* complainant and, therefore, there is *prima facie* material against the petitioners. The learned Magistrate has also observed that the *de facto* complainant was subjected to cruelty outside the room and so far as petitioner No.2 is concerned, the learned Magistrate has pointed out the comments made by the sister-in-law of *de facto* complainant belittling the occupation of father of the *de facto* complainant and she being brought up with the services of domestic servants as her father worked as Mandal Revenue Officer and other comment that her father was working in useless department and certain other comments, which the learned Magistrate has referred to.

6. In the presence of the allegations contained in the statements recorded under Section 161 of the Code and finding tendered by the learned Magistrate while dismissing the discharge petition, certainly, unless it is shown that the finding recorded by the learned Magistrate tainted with patent illegality, no interference is warranted.

Therefore, the present petition is dismissed at the stage of admission itself for want of merit. As a sequel thereto, miscellaneous petitions, if any, pending in the petition stand closed.

A. SHANKAR NARAYANA, J

April 19, 2017.

Mgr

