

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL PETITION No.891 of 2017

ORDER:

The present petition, under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.), is filed by the petitioners/Accused Nos.1 & 2 requesting to quash the proceedings in C.C.No.352 of 2013 on the file of II Additional Judicial First Class Magistrate, Tenali.

Heard Sri C.Raghu, learned counsel for the petitioners, and the learned Additional Public Prosecutor for the State of Andhra Pradesh on behalf of respondent No.1.

The main contention of learned counsel for the petitioners is that the allegations leveled in the present complaint are created only to falsely implicate the petitioners. One of the main submissions, basing on which quashing of the proceedings sought for, is that some time after the marriage of petitioner No.1 with respondent No.2/*de facto* complainant, the *de facto* complainant, in fact, did not join the conjugal society of petitioner No.1 and that constrained petitioner No.1 to approach the Family Court, Ranga Reddy District at L.B.Nagar by filing O.P.No.1400 of 2011 under Section 9 of the Hindu Marriage Act, requesting to grant a decree for restitution of conjugal rights, and even decree was passed therein on 26.06.2012 and, thereafter, even though the petitioners made attempts, the *de facto* complainant did not join the society of the petitioners and all

these would indicate that the *de facto* complainant went upon harassing the petitioners and lodged the present complaint. Learned counsel would also submit that the present complaint was filed subsequent to passing of the decree in O.P.No.1400 of 2011.

The learned Additional Public Prosecutor for the State of Andhra Pradesh would resist the request.

Be that as it may, a perusal of the complaint averments would show distinct overt acts and also it reflects that after the *de facto* complainant was driven out, at the intervention of the elders, she again joined the petitioners in the month of October, 2011 on the promise made by petitioner No.1 that he would look after her well, but again the alleged harassment went unabated. On the face of these specific allegations made in the complaint, it is difficult to hold at this stage that the said allegations are wholly false merely on the ground that the complaint was filed subsequent to passing of decree in the said O.P, more particularly, when there is nothing on record to show as to the attempts made by petitioner No.1 in executing the decree in the said O.P. These aspects have to be looked into or gone into during the trial, including the probabilities that can be derived, and certainly it cannot be said that a case is made out to hold that it is abuse of process of law or a vexatious prosecution.

Accordingly, the Criminal Petition is dismissed at the stage of admission itself.

Miscellaneous applications, if any pending in the present petition, stand closed.

JUSTICE A.SHANKAR NARAYANA

06.02.2017

v v

