

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1544 OF 2017

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code'), is filed by the petitioners viz., Shaik Meeravali, Shaik Subhani, Shaik Basha and Shaik Hussain, respectively, requesting to quash the proceedings in Calendar Case No.1005 of 2012 on the file of II Additional Chief Metropolitan Magistrate, Vijayawada.

2. The petitioners herein, who are arraigned as accused Nos.2 to 5 in the aforesaid Calendar Case, alleged to have committed the offence punishable under Section 498A IPC.

3. Heard Sri R.K.G. Bhatia, learned counsel for the petitioners, and the learned Additional Public Prosecutor for the State of Andhra Pradesh, and perused the material on record.

4. The learned counsel for the petitioners would submit that there is absolutely no case made out against the petitioners and the statements, recorded by the police under Section 161 of the Code, of LWs.2 and 3 are stereotype statements, more particularly, petitioner Nos.3 and 4 - accused Nos.4 and 5, who are brothers of accused No.1 and incidentally brothers-in-law of *de facto* complainant, who is respondent No.1 herein, never alleged to have participated in

commission of the offence and the *de facto* complainant roped them; and that neither in the complaint nor in the statements of LWs.1 to 3 recorded under Section 161 of the Code, specific overt acts, so far as the petitioners are concerned, have been mentioned except stating that her parents-in-law and two younger brothers of her husband supported accused No.1 in causing harassment to her and, therefore, it is his submission to allow the petition.

5. The learned Additional Public Prosecutor would strongly resist the request contending that there has been instigation by petitioner Nos.3 and 4, whereas there is direct participation in causing harassment to the *de facto* complainant by their acts, which are specifically mentioned and, therefore, sought to dismiss the petition.

6. In the present case, the petitioners are the parents-in-law and brothers-in-law, respectively, of the *de facto* complainant viz., Smt. Shaik Chathabhi, who is respondent No.1 herein. The only offence alleged against the petitioners is punishable under Section 498-A IPC. The statements recorded under Section 161 of the Code require examination in arriving at whether there are allegations sufficient to prosecute the petitioners herein for the offence alleged against them.

7. The learned counsel for the petitioners has drawn attention to the statements of LWs.1 to 3 recorded under Section 161 of the Code. LW.1 is no other than the *de facto* complainant. LW.2 viz., Shaik Fajulunnisa is the mother of the *de facto* complainant and LW.3 viz., Shaik Shilalsa is father of the *de facto* complainant.

8. Substantially, the statements made by all the three (3) witnesses is to the effect that accused No.1, who is the husband of the *de facto* complainant, treated her well for a period of three (3) years after the marriage that took place in 2007 and even two (2) daughters were born out of their wedlock; thereafter, accused No.1 addicted to vices and started demanding to get amounts from her parents house and harassing her physically and mentally and even developed extra-marital relations with one Prameela, and, on occasions he used to demand her to sell the land standing on her name and to give the amount and started living with the said Prameela in the 5th Lane of Srinagar Colony, Vijayawada, by taking a house on rent. When elders intervened, in the mediation, he assured that he would treat the *de facto* complainant and their children well and taken a house on rent in Ramnagar on 20.07.2011, but, even thereafter, there was no change in his behaviour as he continued to maintain relations with Prameela and the gold given by her parents was sold away and when she questioned him about the same, he threatened her that he would kill

her by pouring kerosene and setting fire to her and that her parents-in-law and brothers-in-law also supported her husband's acts.

9. So far as, parents-in-law are concerned, certainly, there is a duty cast on them not to harass the *de facto* complainant, and also to set the things right by suitably admonishing accused No.1, who is not a petitioner herein, and cannot support him. When viewed in that context, it cannot be said that the allegations would not show complicity of the parents-in-law in the commission of the offences alleged against them. However, so far as brothers-in-law are concerned, who are petitioner Nos.3 and 4 herein, it is difficult to construe that there are allegations to show their complicity in commission of the alleged offence, more particularly, when the *de facto* complainant along with her children were taken out from the house of the parents-in-law by her husband and started living in a house, taken on rent, in Srinagar colony of Gannavaram.

10. Thus, so far as petitioner Nos.3 and 4 viz., Shaik Basha and Shaik Hussain, who are brothers-in-law of the *de facto* complainant, are concerned, their trial in the C.C. would not yield any further result and would amount to abuse of process of law.

11. Therefore, the present Criminal Petition is allowed in part quashing the proceedings against petitioner Nos.3 and 4 (accused Nos.4 and 5) viz., Shaik Basha and Shaik Hussain, alone, in Calendar

Case No.1005 of 2012 on the file of II Additional Chief Metropolitan Magistrate, Vijayawada, while dismissing the request of petitioner Nos.1 and 2 (accused Nos.2 and 3).

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition stand closed.

A. SHANKAR NARAYANA, J

March 13, 2017.

MGR/PV

