

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION Nos.6743 AND 6744 OF 2017

ORDER:

Heard learned counsel for the petitioners and also learned public prosecutor, representing for the 2nd respondent – State, before ordering notice to the 1st respondent – defacto complainant and perused the grounds in the quash petitions.

2. So far as the first petition viz., CrI.P.No.6743 is concerned, as held by this Court in ***Gaddameedi Nagamani Vs. State of Telangana and others***¹, there is an appeal remedy under Section 29 of the Protection of Women from Domestic Violence Act, 2005 (herein after, 'the Act'), including to impugn the cognizance order and hence, liberty is given to the petitioners to approach the learned Sessions Judge by maintaining appeal, within one week from the date of receipt of this order and on such event, the learned Sessions Judge, without referring to period of limitation, shall entertain.

3. Whereas, the second petition viz., CrI.P.No.4544 is concerned, the police after investigation filed final report and the learned Magistrate taken cognizance for the offences punishable under Section 498A IPC. At the post cognizance stage, this quash petition is filed. The petitioners can raise all these contentions before the trial court at the stage of

¹ 2015 (2) ALD (CrI) 764

hearing before charges, if necessary by filing application under Section 239 Cr.P.C. In view of the order of this Court dated 31.07.2017 in CrI.P.No.6493 of 2017, relying upon the latest two Judge Bench expression of the Hon'ble Apex Court dated 27.07.2017 in CrI.A.No.1265 of 2017 (SLP (CrI.) No.2013 of 2017 in **Rajesh Sharma & Others Vs. State of U.P. & another**), the matter viz., CrI.P.No.6744 of 2017 requires to be referred by the learned trial Magistrate to the Committee to be constituted for report to consider any reconciliation and settlement and if it is not settled, then to proceed with trial on merits.

4. Needless to say, it is left open to the petitioners in the above said two case to file application under Rule 37 of the Criminal Rules of Practice to consider after hearing for one to represent others.

5. Accordingly and with the above directions, these criminal petitions are disposed of. Miscellaneous petitions pending consideration, if any, in these cases shall stand closed in consequence.

DR.B.SIVA SANKARA RAO, J

04.08.2017
SS