

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1730 OF 2017

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code'), is filed requesting to quash the proceedings in C.C.No.557 of 2016 on the file of XIII Additional Chief Metropolitan Magistrate, Hyderabad.

2. The petitioners herein, who are the parents-in-law of the *de facto* complainant, are arraigned as accused Nos.2 and 3 in the above Calendar Case, whereas the husband of *de facto* complainant is arraigned as accused No.1, but he is not a party to the present Criminal Petition. They alleged to have committed the offences punishable under Section 498A I.P.C. and Sections 4 to 6 of Dowry Prohibition Act. The case was registered pursuant to the complaint filed by respondent No.2 - *de facto* complainant before the Court and the Court referring it to the concerned police, under Section 156 (3) of the Code.

3. Heard Sri B. Siva Prasad, learned counsel for the petitioners, and learned Additional Public Prosecutor for the State of Telangana.

4. Learned counsel for the petitioners would draw the attention of this Court to the receipt said to have issued by the *de facto* complainant acknowledging receipt of Rs.10,50,000/- by way of cash from Sri Vekata Pavan Kumar, husband of the *de facto* complainant,

in connection with mutual consent divorce petition. Learned counsel would submit that, initially, the husband of *de facto* complainant filed O.P.No.283 of 2014 on the file of Additional Family Court, City Civil Court, Hyderabad, under Section 12 (1) (a) of the Hindu Marriage Act, 1955, and subsequently, in view of the intervention of elders, the said O.P. was converted into one of seeking divorce on mutual consent, and the Additional Family Court, by order and decree, dated 08.02.2016, granted divorce. Learned counsel would also submit that as per the terms of settlement, though, the *de facto* complainant has to withdraw the present Calendar Case by entering in a compromise, she is not attending the Court to give evidence.

5. In the aforesaid circumstances, certainly, it is not a fit case to quash the proceedings in the Calendar Case, but a direction can be given to the learned XIII Additional Chief Metropolitan Magistrate, Hyderabad, to dispose of the Calendar Case within three months from the date of receipt of a copy of this order, so that the learned Magistrate can fix a schedule and require the police to effect summons on LW.1 – *de facto* complainant and other witnesses.

6. Hence, while dismissing the present Criminal Petition, the learned XIII Additional Chief Metropolitan Magistrate, Hyderabad, is directed to dispose of C.C.No.557 of 2016 pending on its file within the time limit as indicated above.

7. Learned counsel for the petitioners would further submit that petitioner No.2 is unable to move and filed certain documents, including medical records secured from Yashoda Hospital, Secunderabad, and photographs, which would show that petitioner No.2 was moving in a wheel chair and practically fed by her husband, petitioner No.1. In that view of the matter and, since, accused No.1 is said to be attending Court in the above Calendar Case, the presence of both the petitioners is dispensed with during trial of the above Calendar Case. It is also made clear that the learned Magistrate is at liberty to require presence of the petitioners at the time of examination under Section 239 Cr.P.C., in case, it is not yet done, and under Section 313 Cr.P.C. and on other occasions where their presence is absolutely necessary.

8. Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

A. SHANKAR NARAYANA, J

March 06, 2017.
MD