

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL PETITION No. 259 of 2011

ORDER:

This criminal petition is filed under Section 482 of Cr.P.C. to quash the proceedings in C.C.No.103 of 2010 on the file of the Judicial Magistrate of First Class, Special Mobile Court, Anantapur.

2. The allegations in the complaint filed by the 2nd respondent-defacto complainant against the petitioner are that she is a resident of Kanekal village and presently residing at Anantapur; that her marriage was performed with one Nagabhushana about 8 years ago and she was blessed with a son, and she used to run a Beauty Parlour at Sai Nagar, Anantapur. After the death of her husband, she developed acquaintance with the petitioner who was working as a Lab Technician at Udaya Kumari Gynaecology Hospital. The acquaintance grew and they married at Anjaneya Swamy Vari Temple, Kasapuram, in the presence of one Sri Anjaneyulu and Sri B. Purushottam, and after marriage they resided in House No.17-1-38, Venugopala Nagar, Anantapur. Thereafter, the petitioner started to ill-treat her and beat her as his relatives did not like her, and thereafter he stopped visiting her house. She lodged a complaint against the petitioner before the Mahila Police Station, Anantapur, which was registered as a

case in Crime No.31 of 2009, for the offence punishable under Section 498A IPC. The police investigated the case and filed charge sheet in C.C.No.103 of 2010 on the file of the Judicial Magistrate of First Class, Special Mobile Court, Anantapur.

3. Heard learned counsel for the petitioner, and the learned Public Prosecutor.

4. Learned counsel for the petitioner submits that the petitioner has not married the 2nd respondent-*de facto* complainant at all, and the date of marriage has not been mentioned in the complaint. It is further submitted that the Executive Officer of Anjaneya Swami Vari Temple, Kasapuram, has issued a Certificate stating that the marriage between the petitioner and the 2nd respondent was not performed in the premises of the temple during the period between 21.02.2007 and 09.04.2010 and hence, the question of harassment attracting offence punishable under Section 498-A of I.P.C. does not arise, and, therefore, prayed to quash the proceedings.

5. Learned Public Prosecutor submits that in view of the allegations in the complaint, and in the light of investigation and recitals in the charge sheet, the offence under Section 498-A IPC is

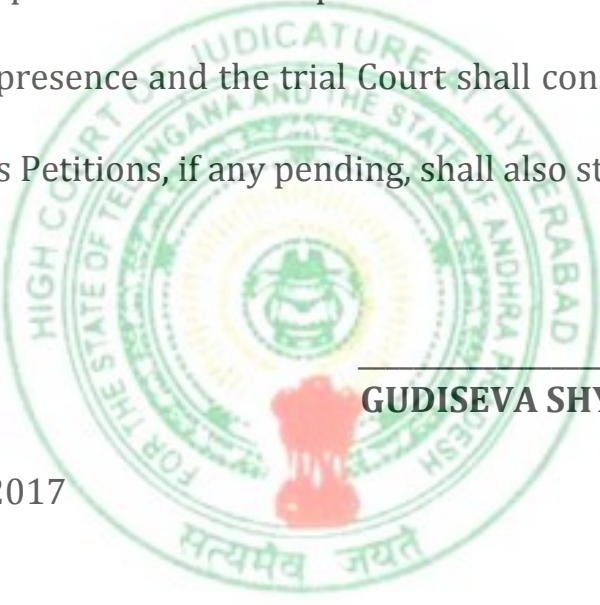
made out against the petitioner and, therefore, this is not a fit case to quash the proceedings.

6. This is a quash petition filed by the petitioner-accused who is alleged to have committed the offence under Section 498-A IPC. It is the case of the 2nd respondent in her complaint that the petitioner married her at Anjaneya Swamy vari Temple in the presence of one Anjaneyulu and Purushottam, and they led conjugal life for sometime and thereafter he started harassing her and used to beat her, apparently as she is not to the liking of his relatives. Thereafter, the petitioner has totally stopped coming to the house. On the contrary, it is the case of the petitioner that he did not marry the 2nd respondent at all, and to support his contention he produced a certificate issued by the Executive officer of the Anjaneya Swamy Vari Temple, Anantapur.

7. No doubt, the petitioner has placed reliance on a Certificate issued by the Executive Officer of the temple which states that marriage between the petitioner and respondent was not performed in the temple premises during the particular period. The said document cannot be relied upon at this stage, in this quash petition unless the author of the document and the prosecution witnesses i.e., L.Ws.1 to 7 are examined. A question of fact cannot be decided by this Court in exercise of jurisdiction

under Section 482 Cr.P.C. Truth or otherwise of the allegations can only be decided during the course of trial. Therefore, it is not a fit case to quash the proceedings and the criminal petition is liable to be dismissed. At this juncture, learned counsel for the petitioner requested to dispense with the presence of the petitioner before the trial Court.

8. **IN THE RESULT**, the Criminal Petition is dismissed giving liberty to the petitioner to file a petition before the trial Court to dispense his presence and the trial Court shall consider the same. Miscellaneous Petitions, if any pending, shall also stand dismissed.



GUDISEVA SHYAM PRASAD,J

Date : 09.10.2017

Ssp / Ksm

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