

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1328 OF 2017

ORDER :

The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973, to quash the proceedings in M.C.No.100 of 2016 pending on the file of the Judge, Family Court –cum– IV Additional District Judge, Ranga Reddy at L.B. Nagar, which was laid by the 2nd respondent herein under Section 125 Cr.P.C. claiming maintenance of Rs.40,000/- per month.

2. Sri P. Prabhakar Reddy, learned counsel for the petitioner, would submit that originally the petitioner herein filed M.C.No.1132 of 2015 against the 2nd respondent herein before the Principal Family Court, Bangalore, for restitution of conjugal rights and since the attempt of the petitioner proved abortive, he filed M.C.No.4031 of 2015 for grant of decree of divorce. Later, the 2nd respondent filed C.C.No.166 of 2016 on the file of the XIV Metropolitan Magistrate at L.B.Nagar, Ranga Reddy, under Section 498-A of the Indian Penal Code, 1860 (IPC) and Sections 3 and 4 of the Dowry Prohibition Act, 1961, besides M.C.No.100 of 2016. It is according to learned counsel, in fact the divorce petition in M.C. No.4031 of 2015 was disposed of on 29.08.2016 by granting decree of divorce on compromise being effected and the learned counsel also drawn attention to pages 20 and 21 of the material papers, which relate to the order passed by the IV-Additional Principal Judge, Family Court,

Bangalore, to the effect that the 2nd respondent has received Rs.7,00,000/- vide Demand Draft bearing No.509887 dated 25.08.2016 drawn on ICICI Bank and she has endorsed in token of receipt of the said demand draft.

3. The learned counsel also submits that this Court in Crl.P.No.16290 of 2016 quashed the proceedings in C.C.No.166 of 2016, by the order dated 15.12.2016, by holding that the cause would not survive, relying on the law declared by the Hon'ble Supreme Court in **State of Haryana v. Bhajanlal**¹, more particularly, referring to guideline No.7.

4. Learned counsel would submit that since the order in M.C.No.100 of 2016 could not be secured by the date of filing of Crl.P.No.16290 of 2016, the request to quash the proceedings in M.C.No.100 of 2016 could not be made in the said criminal petition.

5. Be that as it may, when divorce decree was granted by the aforesaid Court on 29.08.2016 and an amount of Rs.7,00,000/- was also received by the 2nd respondent herein, continuation of proceedings in M.C.No. 100 of 2016 on the file of the Judge, Family Court-cum-XIV Metropolitan Magistrate, Ranga Reddy at L.B.Nagar, is of no purpose and, therefore, the criminal petition deserves to be allowed.

¹ 1992 Supp (1) SCC 335

6. Accordingly, the criminal petition is allowed quashing the proceedings in M.C.100 of 2016 on the file of the Judge, Family Court-cum-XIV Metropolitan Magistrate, Ranga Reddy at L.B.Nagar against the petitioner.

7. Miscellaneous petitions pending, if any, shall stand closed.

A. SHANKAR NARAYANA, J

17th February 2017.

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