

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.10167 of 2017

ORDER:

This Criminal Petition is filed, under Section 482 Cr.P.C., by the petitioners/A.2 to A.5, to quash the proceedings in C.C.No.255 of 2017 on the file of I Additional Judicial Magistrate of First Class, Nizamabad, for the offence punishable under Section 498-A read with 109 IPC.

2. The main contention of learned counsel for petitioners before this Court is that the petitioners are innocent persons and they were falsely implicated in this case; that all the petitioners are residing at different places; that the police after completion of investigation, filed charge sheet against A.1 only stating that no case is made against petitioners/A.2 to A.5 and requested the Court to drop proceedings against other accused and take cognizance against A.1 only, but the learned Magistrate without assigning any reason took cognizance against all the accused including the petitioners and hence, he prays to quash the proceedings against these petitioners in the aforesaid Calendar Case.

3. The dispute between the parties is only a matrimonial dispute. As per the judgment of Hon'ble Apex Court in ***Rajesh Sharma & Others Vs. State of U.P. & another***), if the dispute between the parties relates to matrimonial offence whether the case is at the stage of investigation or pending before the Court, refer the case to Committee constituted for reconciliation and

settlement. In case if the case is not settled, then to proceed with trial on merits.

4. Yet, the order passed by the Magistrate taking cognizance of the case against these petitioners is revisible under Section 397 Cr.P.C. Therefore, when the petitioners have effective and efficacious alternative remedy is available under the statute, this Court cannot exercise such inherent powers under Section 482 Cr.P.C., to quash the proceedings as held by the Apex Court in **Municipal Corporation of Delhi Vs. Ram Kishan Rohtagi & others¹**. Considering the facts and circumstances of the case, this Court is of the considered opinion that it is a fit case to refer the matter to the Committee for settlement as per **Rajesh Sharma's case (supra)**.

5. With the above observation, the Criminal Petition is disposed of. Miscellaneous petitions, if any, pending in this petition shall stand closed.

M. SATYANARAYANA MURTHY, J

NOVEMBER 03, 2017
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¹ AIR 1983 SC 67

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Date: 03.11.2017

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