

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.11517 OF 2017

ORDER:

This Criminal Petition is filed under Section-482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in C.C.No.103 of 2015 on the file of the learned II Additional Judicial Magistrate of First Class, Tanuku, West Godavari District.

The main contentions of Sri Mahadeva Kanthirgala, learned counsel for the petitioner, before this Court are that the petitioner/Accused No.1 is an innocent person; that respondent No.2-wife of the petitioner herself left the matrimonial home without intimation to the inmates of the house; that respondent No.2 developed dislike towards the petitioner; and that she used to live with her parents. The learned counsel, therefore, prays to quash the aforesaid Calendar Case.

The dispute between the parties is only a matrimonial dispute. As per the judgment of the Hon'ble Apex Court in ***Rajesh Sharma v. State of U.P.***¹, if the dispute between the parties relates to matrimonial offence, whether the case is at the stage of investigation or pending before the Court, the same shall be referred to a Committee constituted for reconciliation and settlement. If the case

¹ 2017 (2) ALT (CrL.) 393 (SC)

is not settled, then the Magistrate concerned shall proceed with the trial of the case on merits.

That apart, the order passed by the Magistrate taking cognizance of the case against the petitioner is revisible under Section-397 Cr.P.C. Therefore, when an effective and efficacious alternative remedy is available to the petitioner under the Statute, this Court cannot exercise the inherent power under Section 482 Cr.P.C., to quash the aforesaid proceedings against the petitioner, as held by the Apex Court in *Municipal Corporation of Delhi Vs. Ram Kishan Rohtagi & others*².

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 reconciliation and settlement as per *Rajesh Sharma's case* (one supra).

With the above direction, the Criminal Petition is disposed of.

As a sequel, Miscellaneous Petitions pending, if any, shall also stand closed as infructuous.

JUSTICE M. SATYANARAYANA MURTHY

23rd November 2017

dr

² AIR 1983 SC 67