

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.11979 of 2017

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code to quash the proceedings in Crime No.278 of 2017 of Neredmet Police Station, Rachakonda, registered for the offences punishable under Sections 498-A and 497 IPC, against the petitioner/A2, who is an alleged paramour of the 1st accused.

The main allegation made against the petitioner/A2 is that she developed illicit contact with A1 and living in adultery with him and that the petitioner/A2 along with A1 subjected the 2nd respondent to cruelty for failure to meet illegal demand of payment of dowry etc.

Section 497 IPC is punishment for adultery. The police are incompetent to investigate into the offence in view of the prohibition under Section 198(1) Cr.P.C. The husband of the paramour is only competent to file private complaint, but not the wife of the paramour of this petitioner. Therefore, the Investigating Agency is not competent to investigate into the offence punishable under Section 497 IPC.

The other offence allegedly committed by the petitioner/A2 along with A.1 is punishment under Section 498-A IPC, who is not a relative of the husband of the 2nd respondent herein. At this stage, it is difficult to accept the contention that she developed illicit intimacy with A1.

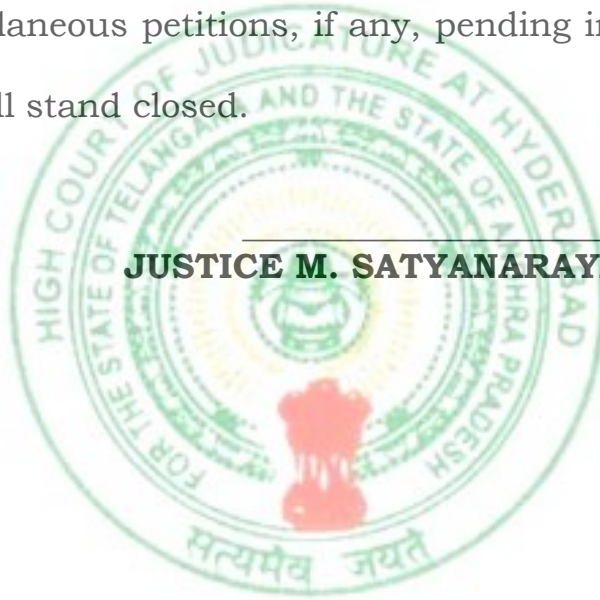
Taking into consideration, the facts and circumstances of the case, the criminal petition is disposed of directing the police to follow the procedure laid down under Section 41-A of Cr.P.C and guidelines formulated by the Apex Court in “**Rajesh Sharma v. State of U.P.¹**”. A1 is also directed to appear before the said committee and that the committee has to make preliminary enquiry and decide the matter in accordance with law.

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

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

06.12.2017
kvrn

JUSTICE M. SATYANARAYANA MURTHY



¹ 2017 (2) ALT (Cri.) 393 (SC)