

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.3613 OF 2014

ORDER:

This Criminal Petition, under Section 482 of Cr.P.C., is filed by the petitioners-A.2 to A.5 seeking to quash the proceedings against them in C.C. No.852 of 2013 on the file of the III Metropolitan Magistrate, Cyberabad at L.B.Nagar, for the offence under Section 498A I.P.C.

2. The Criminal Petition against the petitioners-A.4 and A.5 is dismissed as not pressed.

3. Heard the learned counsel for the petitioners-A.2 and A.3, the learned Additional Public Prosecutor appearing for the 1st respondent-State and the learned counsel for the 2nd respondent-*de facto* complainant, apart from perusing the material available on record.

4. Learned counsel for the petitioners-A.2 and A.3 would submit that some bald allegations were made out against these petitioners; the allegations made in the report do not constitute an offence under Section 498A I.P.C. against the petitioners; the petitioners are living at a different place from the place where the *de facto* complainant-respondent No.2 is residing; and ultimately, prayed to quash the proceedings as prayed for.

5. On the other hand, learned Additional Public Prosecutor opposed the relief sought by the petitioners.

6. The learned counsel for respondent No.2-*de facto* complainant would submit that there are grave allegations against the petitioners constituting the offence under Section 498A I.P.C.; there are no grounds to quash the proceedings; and ultimately, prayed to dismiss the application.

7. As per the prosecution case, the *de facto* complainant-respondent No.2 is the wife of A.1. She lodged a report with the police on 01.06.2013 alleging that these petitioners-A.2 and A.3 have caused mental and physical cruelty to her. After investigation, the police have filed charge sheet against these petitioners and other accused for the offence under Section 498A I.P.C. The marriage of the *de facto* complainant-respondent No.2 with A.1 was solemnized at Boduppal. At the time of marriage, the parents of the *de facto* complainant-respondent No.2 said to have given Rs.5,50,000/- towards dowry, thereafter she joined her husband (A.1) at Sircilla and stayed there for one week. Thereafter, she joined her husband (A.1) at Pune, where he was working. Thereafter, she joined in a software company at Pune in the month of June, 2012. The allegations are that her husband used to take her salary from her bank account and when she declined to part with the salary, her husband used to abuse her and caused mental and physical cruelty. It is alleged that due to the harassment meted out to her, she lost her pregnancy. There are also allegations against A.1, in not receiving the *de facto* complainant-respondent No.2 to his company. As per the record, the marriage between the *de facto* complainant-respondent No.2 and A.1 is a love marriage and most of the time, they resided at Pune. These petitioners-A.2 and A.3 are residing at Sircilla, Karimnagar District and the petitioner-A.2 is a Medical Practitioner. As per the submissions, the petitioner-A.2 said to have acquired lot of property in the course of his medical practice. It appears that there is a demand from the *de facto* complainant-respondent No.2 to provide 50% share in the property belonging to the petitioners-A.2 and A.3. In that process, some differences arose between them. The termination/miscarriage of pregnancy of the *de facto* complainant-respondent No.2 has nothing to do

with the petitioners-A.2 and A.3. In view of the love marriage between the *de facto* complainant-respondent No.2 and A.1 and their stay at Pune for considerable period and short stay at Sircilla, it cannot be held that these petitioners-A.2 and A.3 are responsible for the offence alleged against them. There is record to show that A.1 issued a notice for divorce, after that, *de facto* complainant-respondent No.2 filed a report instituting the criminal proceedings against her husband and others. In view of the omnibus allegations and in view of the stay of the parties at distinct places, the petitioners-A.2 and A.3 are entitled to the relief sought for.

8. In the result, the Criminal Petition is allowed and the proceedings against the petitioners-A.2 and A.3 in C.C. No.852 of 2013 on the file of the III Metropolitan Magistrate, Cyberabad at L.B.Nagar, are quashed. Miscellaneous petitions, if any pending in this Criminal Petition, shall stand closed.

Date: 07-03-2018

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Dr. SHAMEEM AKTHER, J

