

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.1503 OF 2018

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioners-A.2 and A.3 seeking to quash the proceedings against them in C.C. No.338 of 2017 on the file of the Judicial Magistrate of First Class for Prohibition and Excise, Kadapa, YSR Kadapa District, for the offences under Sections 498-A and 506 I.P.C. r/w Section 34 I.P.C.

2. Heard the learned counsel for the petitioners-A.2 and A.3 and the learned Assistant Public Prosecutor, apart from perusing the material on record.

3. Learned counsel for the petitioners-A.2 and A.3 would submit that there are no allegations against the petitioners-A.2 and A.3, who are the sisters of A.1 and sister-in-law of respondent No.2-*de facto* complainant; both the petitioners are widows and they have nothing to do with the family of the *de facto* complainant and A.1; they have not subjected the *de facto* complainant to cruelty; there is no material to proceed the case against the petitioners; and ultimately, prayed to allow the application.

4. Learned Assistant Public Prosecutor opposed the grant of relief sought by the petitioners-A.2 and A.3.

5. In view of the contentions putforth by both sides, the point for determination is, whether the proceedings against the petitioners-A.2 and A.3 in C.C. No.338 of 2017 on the file of the Judicial Magistrate of First Class for Prohibition and Excise, Kadapa, YSR Kadapa District, can be quashed?

6. As per the material placed on record, on 15.12.2005, the marriage between A.1 and the *de facto* complainant was performed as per the customs in their caste. In the marriage, father of the *de facto* complainant Sri B.Sudhakar presented dowry in the form of cash of Rs.80,000/-, Hero Honda motorcycle, etc., and the *de facto* complainant and A.1 lived together happily for some time. Thereafter, at the instance of the petitioner-A.2, who is the elder sister of A.1, started harassing the *de facto* complainant and A.1 started beating the *de facto* complainant severely. The *de facto* complainant waited for some days that there would be change in the behaviour of A.1 but in vain. The petitioner-A.2 used to backbit against *de facto* complainant to her husband-A.1 and A.1 forcibly necked her out from his house. There was also mediation by the elders and they chastised A.1. Thereafter, A.1 demanded additional dowry and ill-treated the *de facto* complainant physically and mentally at the instance of the petitioner-A.2. There are many instances where A.1 beat and necked out the *de facto* complainant at the instance of the petitioner-A.2. There are allegations that the petitioner-A.3, who is the sister of A.1, alleged to have performed second marriage of A.1 with one Monica. In the first information report also lodged by the *de facto* complainant, the same is mentioned. There are no allegations of dowry harassment as well as causing physical and mental harassment to the *de facto* complainant by the petitioner-A.3. The investigating officer after investigating the case held that a case under Section 494 I.P.C. was not made out and he left open the Court to determine the same in the course of trial. In view of the facts and circumstances referred above, there are no allegations of dowry harassment, physical or mental cruelty against the petitioner-A.3. Therefore, the proceedings against the petitioner-A.3 in C.C. No.338 of 2017 are liable to be quashed. As far as the petitioner-A.2 is concerned,

there are specific and grave allegations. The petition is liable to be dismissed in respect of the petitioner-A.2.

7. The Criminal Petition is allowed in part and the proceedings against the petitioner-A.3 in C.C. No.338 of 2017 on the file of the Judicial Magistrate of First Class for Prohibition and Excise, Kadapa, YSR Kadapa District, are quashed. The Criminal Petition is dismissed in respect of the petitioner-A.2. Pending Miscellaneous Petitions, if any, shall stand closed.

14th February, 2018

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Dr. SHAMEEM AKTHER, J

