

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.9985 OF 2016

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. by the petitioner-accused seeking to quash the proceedings in C.C. No.815 of 2015 on the file of the I Additional Chief Metropolitan Magistrate, Visakhapatnam which was taken cognizance for the offences punishable under Sections 497 and 498 IPC.

2. Heard the learned counsel for the petitioner, the learned Assistant Public Prosecutor appearing for the respondent-State, the learned counsel for respondent-defacto complainant, and perused the record.

3. Learned counsel appearing for the petitioner-accused would submit that there is no illegal intimacy as alleged by the respondent-defacto complainant; that no ingredients are there to proceed against the petitioner-accused for the offences punishable under Section 497 or 498 IPC; that the statement of respondent-defacto complainant that he found his wife and the petitioner-accused in compromising position is not tenable and invented for the purpose of this case, and it cannot be a basis to proceed with the Calendar Case, and ultimately, prayed to quash the impugned proceedings.

4. On the other hand, learned counsel for respondent-defacto complainant contended that there is ample material on record to proceed with the Calendar Case as the allegations make out a *prima facie* case for the offences alleged, and so, there are no grounds to quash the impugned proceedings.

5. The learned Assistant Public Prosecutor also supported the submissions made on behalf of the respondent-defacto complainant.

6. In view of the contentions put forth by both sides, the point for determination is whether the proceedings in C.C. No.815 of 2015 on the file of the I Additional Chief Metropolitan Magistrate, Visakhapatnam can be quashed ?

7. As per the material placed before this Court, one Simrat Kaur Phull is legally wedded wife of respondent-defacto complainant. Their marriage took place on 29.03.2004 and they were blessed with a male child. There are allegations that the petitioner-accused used to visit house of respondent-defacto complainant in the absence of the latter and in this process he developed extra-marital relationship with wife of the respondent-defacto complainant Simrat Kaur Phull. There are also allegations that the respondent-defacto complainant found both of them in compromising position. There is also other material to substantiate the prosecution case. In view of the material and the submissions made by both the sides, there is nothing to hold that the petitioner-accused is an innocent person and continuation of the impugned proceedings is abuse of process of Court. Viewed from any angle, it is not a fit case to quash the impugned proceedings.

8. However, since the crime is of the year 2012 and the Calendar Case is of the year 2015, the Court below is required to expedite trial of the case and complete it expeditiously, preferably within a period of six months from the date of receipt of a copy of this Order.

9. With the above direction, the Criminal Petition is, accordingly, dismissed.

Miscellaneous Petitions pending, if any, in the Criminal Petition shall stand closed.

DR.SHAMEEM AKTHER, J

27.2.2018
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