

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.1711 OF 2018

ORDER:

This Criminal Petition is filed under Section 482 of Cr.P.C. for quashing the proceedings in C.C.No.1430 of 2014 on the file of the learned I Additional Chief Metropolitan Magistrate, Visakhapatnam.

2. Heard the learned counsel for the petitioner/accused, the learned Assistant Public Prosecutor representing the respondent No.1-State and perused the record.

3. The learned counsel for the petitioner/accused would submit that there are contradictions in the report lodged by the *de facto* complainant in this case and also her mother with the police concerned. The petitioner/accused is an innocent person. There is no material to proceed with the offences alleged under Sections 420, 493, 509, 506(II) I.P.C. and ultimately prayed to quash the proceedings in C.C.No.1430 of 2014 on the file of the learned I Additional Chief Metropolitan Magistrate, Visakhapatnam

4. The learned Assistant Public Prosecutor opposed the application.

5. As per the material placed on record, the mother and other relatives of the petitioner/accused approached the mother of the *de facto* complainant and got fixed the marriage. The engagement was made as per the customs prevailing in their community. Thereafter, both the accused and the *de facto* complainant started chatting by way of phone as well as through messages. The *de facto* complainant developed complete trust in the petitioner/accused and as per the wish of the petitioner/accused, she went to Bangalore on 27.03.2014, where the *de facto* complainant was confined in a room and tortured physically and

mentally and made to switch off her mobile phone. Then, her parents gave a report to the local police stating that the *de facto* complainant was missing. Basing on that, a case in Crime No.155 of 2014 was registered under the head 'woman missing'. Thereafter, the petitioner/accused refused to marry the *de facto* complainant utilizing her physically and contended that differences arose between his mother and the mother of the *de facto* complainant with regard to the dowry and other gifts to be given in the marriage. The Investigating Officer, after completion of investigation i.e. examining the witnesses, etc., filed charge sheet against the petitioner/accused for the offences under Sections 420, 493, 509, 506(II) I.P.C.

6. In view of the circumstances, when the victim herself stated the behaviour of the petitioner/accused and the manner in which the petitioner/accused has committed the alleged offences, whether there are any contradictions or omissions in the statements of the witnesses can only be decided in due course of trial but not at this stage, holding the petitioner/accused as innocent.

7. Accordingly, this Criminal Petition is dismissed. Miscellaneous petitions, if any pending in this Criminal Petition, shall also stand dismissed.

Dr. SHAMEEM AKTHER, J

Date: 15-02-2018

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