

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION Nos.8520 and 10070 OF 2014

COMMON ORDER:

These petitions are filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in C.C.No.196 of 2013 on the file of the Special Judicial First Class Magistrate of Excise, Ongole, registered for the offences punishable under Sections 498-A read with 34 of Indian Penal Code (for short "I.P.C.).

Learned counsel for the petitioners contended that the petitioner Nos.5 and 6 in CrI.P.No.8520 of 2014 herein are accused Nos.7 and 8. Accused Nos.7 and 8 are village elders, who held panchayat for settling disputes between the defacto complainant and other accused. The allegations made against them are not directly attracting the offence punishable under Section 498-A of I.P.C. as they are the mediators.

Learned counsel for the respondent No.2 fairly conceded that as there are no specific allegations against the accused Nos.7 and 8/petitioners Nos.5 and 6 in CrI.P.No.8520 of 2014, the proceedings against accused Nos.7 and 8 are may be quashed.

However, the petitioner Nos.1 to 4 in CrI.P.No.8520 of 2014 are sisters, brother-in-laws, who are relatives of husband of defacto complainant and the petitioners in CrI.P.No.10070 of 2014 are in-laws of defacto complainant.

Learned counsel for the petitioners advanced substantive argument to rule out their involvement in the case, but at the end requested this Court to dispense with the appearance of the petitioner Nos.1 to 4 in CrI.P.No.8520 of 2014 and the petitioners in CrI.P.No.10070 of 2014 in view of the guidelines formulated by the

Apex Court in **“Rajesh Sharma v. State of U.P.”¹**

While exercising power under Section 482 of Cr.P.C., this Court cannot exercise power under Section 205 of Cr.P.C. However, the petitioner Nos.1 to 4 in Crl.P.No.8520 of 2014 and the petitioners in Crl.P.No.10070 of 2014 are at liberty to file application under Section 205 of Cr.P.C. or under Rule 37 of Criminal Rules of Practice before the concerned Court.

The criminal petitions are allowed in part. The proceedings in C.C.No.196 of 2013 on the file of the Special Judicial First Class Magistrate of Excise, Ongole against the petitioner Nos.5 and 6 in Crl.P.No.8520 of 2014 (accused Nos.7 and 8) are hereby quashed. Petitioner Nos.1 to 4 in Crl.P.No.8520 of 2014 and the petitioners in Crl.P.No.10070 of 2014 are given liberty to file application under Section 205 of Cr.P.C. or under Rule 37 of Criminal Rules of Practice before the concerned Court. On filing such application, the Magistrate concerned is directed to dispose of the said application, in accordance with law, within a week from the date of filing such application keeping in mind the guidelines laid down by the Apex Court in **“Rajesh Sharma v. State of U.P.”** (referred supra). No costs.

Consequently, miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

19.07.2018
Ksp

¹ 2017 (2) ALT (Crl.) 393 (SC)