

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.6119 OF 2018

ORDER:

This criminal petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in C.C.No.492 of 2017 pending on the file of IV Additional Chief Metropolitan Magistrate, Vijayawada, registered for the offence punishable under Sections 406 and 498-A of Indian Penal Code (for short "I.P.C.") and under Sections 3, 4 and 6 of Dowry Prohibition Act.

The petitioners are accused Nos.2 and 3 in the said C.C. Respondent No.2 lodged report with the police initially against the husband and others and after investigation police filed charge sheet before the IV Additional Chief Metropolitan Magistrate, Vijayawada in C.C.No.1040 of 2016 and it is pending for adjudication. While the matters stood thus, respondent No.2 also filed private complaint against the accused in the earlier C.C. pending for consideration impleading some other person for the same offence and the date and time of offence was mentioned as "after 18.03.2015 to November 2016" in C.C.No.492 of 2017, but whereas in earlier complaint, the date and time of offence was mentioned as "prior 21.09.2016". However, though there is some discrepancy with regard to date and time of offence, the Magistrate concerned has to follow the procedure under Section 210 (2) of Cr.P.C. when private complaint and police complaint are pending for the same offence.

When an identical question came up before this Court in "**Namathoti Sankaramma v. State of A.P.**"¹ this Court held that

¹ 2000 (2) ALD (Cri.) 588

Section 210 (2) of Cr.P.C. contemplates that Magistrate would enquire into case arising out of police report and complaint case 'together' as if both cases were instituted on a police report. By applying the principle laid down in the judgment referred supra, IV Additional Chief Metropolitan Magistrate, Vijayawada is directed to follow the procedure under Section 210 (2) Cr.P.C.

With the above direction, the criminal petition is disposed of.
No costs.

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

15.06.2018
Ksp



JUSTICE M. SATYANARAYANA MURTHY