

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.9585 OF 2018

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in C.C.No.761 of 2018 on the file of the V Additional Judicial First Class Magistrate, Rajamahendravaram, registered for the offence punishable under Sections 498-A r/w 34 of Indian Penal Code (for short "I.P.C.").

Sri K.Manik Pradhu, learned counsel for the petitioners contended that the petitioner No.2 is suffering from serious health problems; she is totally bed ridden and not in a position to appear before the Court and requested to dispense with her appearance before the Court below.

This Court cannot exercise power under Section 205 of Cr.P.C. as it is discretionary power conferred on the Magistrate to dispense with her appearance under Section 205 of Cr.P.C. Therefore, the petitioner No.2 and other petitioners are directed to file appropriate application under Section 205 of Cr.P.C. or under Rule 37 of Criminal Rules of Practice enclosing medical evidence to the petition, and on filing such application, the Magistrate concerned is directed to dispose of the same within a week, in accordance with law keeping in mind the guidelines formulated by the Apex Court in ***"Rajesh Sharma v. State of U.P."***¹

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

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

JUSTICE M. SATYANARAYANA MURTHY

07.09.2018
Ksp

¹ 2017 (2) ALT (CrI.) 393 (SC)