

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.10770 OF 2018

ORDER:

This Criminal Petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Code') is filed by the petitioner - accused viz., Kotha Sampath Kumar, to quash the proceedings against him in Calendar Case No.1448 of 2018, pending on the file of the learned VI Additional Judicial Magistrate of First Class at Warangal, Telangana State, registered for the offence punishable under Section 497 of the Indian Penal Code, 1860.

2. The main ground urged before this Court by the learned counsel for the petitioner is that the Hon'ble Supreme Court in **Joseph Shine v. Union of India**¹, the aforesaid provision was declared as unconstitutional and, therefore, 'adultery' i.e., leading of adulterous life and having consensual sex is not an offence.

3. The learned Public Prosecutor for the State of Telangana opposed, but did not dispute the judgment of the Apex Court.

4. In view of the judgment in **Joseph Shine** referred supra, the proceedings against the petitioner - accused in Calendar Case No.1448 of 2018, pending on the file of the learned VI Additional Judicial Magistrate of First Class at Warangal, Telangana State, are liable to be quashed since Section 497 IPC itself is declared as unconstitutional.

¹. Judgment in W.P. (Crl.) No.194/2017, dated 27.09.2018

5. Accordingly, the present Criminal Petition is allowed, at the admission stage itself, quashing the proceedings against the petitioner - accused in Calendar Case No.1448 of 2018, pending on the file of the learned VI Additional Judicial Magistrate of First Class at Warangal, Telangana State.

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

M. SATYANARAYANA MURTHY, J

October 10, 2018

Mgr

