

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No. 11302 OF 2017

ORDER:

A notice was ordered on respondent No. 2 by this Court on 21-11-2017. Accordingly, learned counsel for the petitioner sent notice under registered post with acknowledgement due to respondent No. 2 to her address furnished in the charge sheet and it is returned unclaimed. In view of the circumstances of the case, service is held sufficient.

2. Learned counsel for the petitioner-accused No. 2 submitted that the petitioner is a friend of accused No. 1. It is alleged in the charge sheet filed that accused No. 1, by keeping illegal contact with the petitioner-accused No. 2, harassed mentally and physically his wife – *de facto* complainant to bring some gold *etc.*,. On completion of investigation, charge sheet is filed for the offences under Sections 498-A, 406 and 506 of the Indian Penal Code (for short, 'I.P.C.') and Sections 3 and 4 of Dowry Prohibition Act against accused No. 1 and for the offences under Section 498-A read with Section 109 I.P.C. against the petitioner. Learned counsel for the petitioner relied on a decision reported in ***U.Suvetha Vs. State by Inspector of Police and another***¹, wherein the Hon'ble Apex Court held that girlfriend or concubine, being not related to husband by blood or marriage, cannot be convicted for the offence punishable under Section 498-A I.P.C.

3. In view of the circumstances, the proceedings against the petitioner-accused No. 2 can be quashed as prayed for.

4. The petitioner-accused No. 2 is alleged to have illegal contact with accused No. 1. The petitioner is not related to accused No. 1-husband by blood or marriage. The petitioner may be having illegal contacts with accused No. 1 as alleged by the *de facto* complainant. Therefore, the

¹ (2009) 6 SCC 757

petitioner cannot be proceeded for the offences alleged under Section 498-A read with Section 109 I.P.C. The above decision squarely applies to the instant case. In view of the circumstances, the proceedings against the petitioner-accused No. 2 in C.C.No. 361 of 2017 on the file of the Court of Additional Judicial Magistrate of I Class, Khammam, are quashed.

5. The criminal petition is accordingly allowed. Pending miscellaneous petitions, if any, shall stand closed in consequence.

Dr. SHAMEEM AKTHER, J.

12th February, 2018
JSK

