

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.12002 OF 2017

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. by the petitioners-A.5 and A.6 seeking to quash the proceedings against them in S.C. No.205 of 2017 on the file of the Special Court for the cases relating to atrocities against women (Mahila Court), Khammam.

2. Heard the learned counsel for the petitioners, the learned Assistant Public Prosecutor appearing for the respondent-State and perused the record. In spite of service of notice, none appears for respondent No.3.

3. Case of the prosecution is that A.1 married L.W.2-Md. Khathija, who is wife of respondent No.3-defacto complainant. It is also borne by the record that A.1 and L.W.2-Md. Khathija got performed the nikha without disclosing the first marriage of L.W.2-Md. Khathija with respondent No.3-defacto complainant. Specific allegation against the petitioners-A.5 and A.6 is that they were present when the marriage was performed. There are other allegations with regard to having sex, etc. with wife of defacto complainant by A.1. In view of the circumstances, it cannot be held that the petitioners-A.5 and A.6 has *mens rea*. Further, it cannot be held that they abetted marriage between A.1 and L.W.2-Md. Khathija. In view of these circumstances, continuation of the impugned proceedings against the petitioners-A.5 and A.6 is nothing but abuse of process of court.

4. The Criminal Petition is, accordingly, allowed quashing the impugned proceedings, against the petitioners-A.5 and A.6. Miscellaneous Petitions pending, if any, in the Criminal Petition shall stand closed.

DR.SHAMEEM AKTHER, J

23.2.2018

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