

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRI.P.No.12510 of 2018

ORDER:

The petitioner is A1 among two accused. 1st respondent is the defacto complainant served failed to attend is seeking to quash pending calendar proceedings before the Special Judicial First Class Magistrate for Excise Cases at Hyderabad in C.C.No.19/2018 (previous No.260/2014) that was outcome of Crime No.259/2013 dated 26.12.2013 for the offences under Section 497 IPC and police after investigation by citing seven witnesses filed charge sheet including the Investigating Officer and so far as A2 is concerned, this Court in Crl.P.No.9372/2018, dated 14.11.2018 also by referring to the Apex Court expression in **Joseph Shine v. Union of India** which quashed on for not standing on constitutional validity under Section 497 IPC saying adultery should not be treated as an offence with an observation that it is appropriate to declare Section 198 Cr.P.C. which deals with the procedure for filing a complaint in relation to the offence of adultery as unconstitutional by overruling the earlier expression in **Sowmithri Vishnu v. Union of India**¹ and **V.Revathi v. Union of India**² respectively.

¹ (1985) Supp SCC 137 : AIR 1985 SC 1618

² (1988) 2 SCC 72

Having regard to the above, in view of the covered Judgment, the petition is allowed quashing the proceedings so far as the petitioner-A1. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

31.01.2019
tk.