

(2017) 10 AP CK 0042
In the Andhra Pradesh High Court
Case No : 7108 of 2017

Smt. Mahabunnisa Begum

APPELLANT

Vs

The State of Telangana and others

RESPONDENT

Date of Decision : 25-10-2017

Acts Referred:

Constitution of India, Article 20(2) -
Protection in respect of conviction for offences
Code of Criminal Procedure, 1973, Section
482, Section 302,

Citation : (2017) 10 AP CK 0042

Hon'ble Judges : B. Siva Sankara Rao

Bench : SINGLE BENCH

Advocate : J. Ravindra, Mohd. Muzaferullah Khan

AI Structured Summary

AI-generated summary — verify against the full judgment text before relying on it in practice.

FACTS

The petitioner is the defacto complainant in a criminal case regarding alleged offences under Sections 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act, involving her husband and his family. After the police investigation, a final report was filed, and she sought permission to conduct the prosecution through a private advocate due to concerns about the public prosecutor's ability to focus on her case. The learned Magistrate dismissed her application, stating that the provision allowing victims to conduct prosecution did not apply in this context, leading to the present quash petition.

LAW POINTS

['Whether the defacto complainant can conduct prosecution through a private advocate under Section 302 Cr.P.C.', 'Interpretation of Section 24(8) of the amended Cr.P.C. concerning Magistrate Courts.', 'Discretionary nature of permissions under Section 302 Cr.P.C.', 'Scope and limitations of Sections 301 and 302 Cr.P.C.']

ACTS & ARTICLES

['Code of Criminal Procedure, 1973 - Section 24(8)', 'Code of Criminal Procedure, 1973 - Section 302', 'Code of Criminal Procedure, 1973 - Section 301', 'Indian Evidence Act - Section 136', 'Indian Evidence Act - Section 165']

JUDGMENTS REFERRED

['Dhariwal Industries Limited Vs. Kishore Wadhwani', 'JK International Vs. State', 'Shivkumar Vs. Hukum Chanel', 'Delta Car Private Limited Vs. Sanjeev Shah', 'Gude Bhavani Sujatha Vs. Muggulla Srinivasa Rao', 'Leo Roy Frey Vs. State of Punjab']

OBITER DICTA

The court highlighted the importance of allowing victims to participate actively in the prosecution process, especially when public prosecutors are overburdened. It acknowledged that the right to conduct prosecution should not be disregarded merely due to the workload of the legal representatives.

RATIO DECIDENDI

The court established that under Section 24(8) of the amended Cr.P.C. and Section 302, victims or defacto complainants have the right to engage private advocates to conduct their own prosecution. The decision emphasized that earlier permissions under Section 301 do not preclude later requests for conducting the prosecution independently.

FINAL RULING

The court allowed the Criminal Petition, setting aside the dismissal order of the lower court. It directed the Magistrate to permit the defacto complainant to engage a private advocate to conduct the prosecution alongside the public prosecutor.

PLAIN-LANGUAGE GIST

The dispute centered on the complainant's right to conduct her prosecution through a private advocate. The court ultimately ruled in favor of the complainant, recognizing her right to engage private counsel despite earlier limitations imposed by the Magistrate.