

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO
CRIMINAL PETITION No. 737 OF 2013

ORDER :

This Criminal Petition is filed by the petitioners/A.2 to 5 under Section 482 Cr.P.C seeking to quash the proceedings in C.C.No.290 of 2010 on the file of the Judicial Magistrate of First Class, Palakol, West Godavari District.

2. The petitioners are accused 2 to 5. The learned Magistrate took cognizance against A.1 to A.5 for the offences punishable under Sections 493, 420 r/w 34 IPC. The same is outcome of the report of the 2nd respondent-defacto complainant dated 10.01.2010 as Crime No.6 of 2010 against five accused including the petitioners. The police after investigation filed the final report.

3. A perusal of the FIR setting the law in motion speaks by the defacto complainant that she and A.1 loved each other. However, their marriage was not performed as the defacto complainant's sister Sarala was given in marriage to A.1 and some time after marriage said Sarala died which is three months prior to giving of the report on 10.01.2010 and that after death of said Sarala, A.1 lured the defacto complainant by coming to her saying that she remained as spinster still, because God created both of them to have marital life and she can be treated for all purposes as his wife and had sexual intercourse with her and she believed him and participated in sex with him on assurance that he is going to marry her. However, he enjoyed her for a considerable time with that pretence. Subsequently, even to perform the marriage, the parents, brother and sisters of A.1 agreed. Later, they gave go-bye to their word saying that they are not willing to perform the marriage, as A.1 could get a prospective match who can offer good dowry to them and thereby the defacto complainant was deceived. Hence the complaint.

4. A perusal of the FIR no way speaks for such leading of sexual life by the defacto complainant with A.1. The other accused 2 to 5 are privy in any manner to attract any offence under Section 493 IPC against them. Even from the very report, what was stated is that even the parents and other relatives, who are A.2 to A.5, agreed and fixed the date for performance of marriage of A.1 with the defacto complainant some time after death of first wife of A.1. Once that is taken into consideration, there is no role of A.2 to A.5 to say that they deceived the victim in any manner much less to have sexual intercourse or on the pretence of marriage. The subsequent failure of non-performance of the marriage in saying any attribution against A.2 to A.5 is that they expressed their unwillingness for the marriage, that cannot be called within the four corners of the offence under Section 415 IPC to attract either Section 417 or 420 IPC. Having regard to the above, there are no substantial allegations even from the police final report against A.2 to A.5 who are the petitioners herein to continue the prosecution which is nothing but abuse of process.

5. Accordingly, the Criminal Petition is allowed and the proceedings in C.C.No.290 of 2010 on the file of the Judicial Magistrate of First Class, Palakol, West Godavari District, are quashed.

Consequently, miscellaneous petitions, if any pending in this Criminal Petition, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

19th November, 2015
cbs

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No. 737 of 2013

19th November, 2015

cbs