

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.5818 of 2015

ORDER:

The petitioners/A1 and A2 of Crime No.157 of 2015 of Gandhinagar Police Station, Hyderabad filed the criminal petition to quash the proceedings of the above crime, which is out come of the report of the second respondent *defacto* complainant, for the offences punishable under Sections 323, 448 and 509 of IPC.

The first respondent is the State represented by the Public Prosecutor and the second respondent is *defacto* complainant. Even the registered notices ordered and sent to the second respondent, the same is returned as 'addressee left'. Service is held sufficient and thereby taken as served and heard the learned counsel for the petitioners/A1 and A2 as well as the learned Public Prosecutor for the first respondent State and perused the material on record.

The sum and substance of the report of the second respondent in registering the crime by the first respondent police on 01.05.2015 for the offences supra is that the *defacto* complainant by name Pavani is the resident of H.No.1-3-591 of Kawadiguda, Hyderabad for the past 12 years; that on 30.04.2015 at about 08.25 p.m., while she was attending house hold duties in the kitchen, the opposite house dwellers Praveen (Nani) and his wife Prasanna trespassed into the house of the *defacto* complainant and used abusive words on her and in the mean time her husband who returned back from duty to home, prevented them and they beat her without even disclosing any reason demeaned her in the eye of public by creating galata, hence to take action.

The contentions in the quash petition impugned in the said crime registered are that it is purely a vindictive case filed by *defacto* complainant to settle the counter case vide Crime No.162 of 2015 against Nikil and Nitin registered at Gandhinagar Police Station and it is at the behest of the second respondent/*defacto* complainant by name Smt.Prasanna, the accused abused her in filthy language and physically

assaulted the second respondent by over power on her for which she lodged a complaint on 01.05.2014 and the police registered the case and on the contra as counter blast. The present crime is likely to be registered at earliest point of time on 30.04.2015 and Crime No.162 of 2015 only on 04.05.2015 against Sai Nikil and Nitin for the offences punishable under Sections 341, 323, 506 and 509 of IPC. It is also the contention that in the entire complaint there is no any specific overt act attracted against any of the two accused and thereby sought for quashing of the F.I.R.

This Court passed interim order against the arrest of petitioner Nos.1 and 2 herein pending further orders vide order dated 02.07.2015 and extended from time to time and ultimately, until further orders on 27.08.2015. Even from the quash petition the averments extorted in FIR No.162 of 2015 supra, the so called report of the second petitioner herein against Nikil and Nithin and not against *defacto* complainant Pavani or her husband Lakshminarayana, whereas the present crime is dated 30.04.2015 registered as Crime No.157 of 2015, even taken on the same day or on 30.04.2015 night, the alleged incident happened thus are case as counter and requires investigation by police.

Accordingly, the Criminal Petition is disposed of while holding that there are no grounds to quash the FIR, the interim order passed not to arrest the petitioners is extended pending investigation. Needless to say in the event of police fling final report, learned Magistrate, if taken cognizance, the accused can be summoned for appearance and for execution of Bond under Section 88 of Cr.P.C. for future due appearance, without prejudice to their working out any further rights.

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

Dr. B.SIVA SANKARA RAO J,

Date:29.09.2015

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