

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.8717 of 2015

ORDER:

This Criminal petition is filed under Section 482 Cr.P.C. by the petitioner/A1, Smt S.Muniswari Devi W/o V.Shravankumar seeking to quash the FIR in Crime No.88 of 2013 against her, which is the outcome of a private complaint of the 2nd respondent, defacto complainant-Sri V.Shravan Kumar, filed for the offence punishable under Sections 120B, 406, 420, 468, 471 and 506 IPC, and the 1st respondent to the petition is State represented by Public Prosecutor of the Station House Officer, Meerpet Police Station who registered.

2. The averments in the private complaint dt.20.01.2013 of the complainant against three accused including the quash petitioner/A1 who is complainant's wife and the other two namely S.Chandra Sekhar Reddy and M.Prashanth Reddy no other than brother and friend of A1 respectively, are that the complainant is absolute owner and possessor of open plot No.391 which is northern portion of survey No.59/2 (old 59 part) of 156 sq. yards in ward No.8, Block No.7, teachers colony, Phase-I, Karmanghat area of Rangareddy District which he purchased under registered sale deed No.12373 of 2008 dt.15.12.2008, that A1 is his wife and their marriage solemnized on 28.08.2004 at Yadagirigutta which is out come of suppression of her earlier marriage with another person, and A1 and complainant lead happy marital life for some time and later by exposing her true colours she started quarrelling including on petty issues by humiliating with no respect and even she used to humiliate complainant's mother and other family members by not even preparing food. That on 26.07.2005 A1 blessed with female child Shriya and thereafter she increased her harassment to the complainant and his family members and in securing peace even the complainant bore the same with a fond hope of change in her. While so, in November, 2007 A1 got pregnancy and in July 2008 to the shock of complainant he came to know of prior to his marriage with A1, she already married one late Srinivas Reddy and her original date of birth was 1970

where as in the bio-data given by her before marrying the complainant mentioned as if 1979 which is false with intent to cheat the complainant and his family members and when questioned the A1 about it on his came to know in July, 2008, she started threatening to commit suicide and with no other option, he could keep quite in the future of the child and welfare of both but A1 instead of being grateful to him, started threatening him to transfer properties in her name by taking advantage of complainant's innocence including by unheeding him and later on 02.08.2008 A1 blessed with a male child Akshay and thereafter she further increased her harassment to the complainant and started threatening to transfer properties standing in his name by unheeding him by taking advantage of his tolerance. It is further averred in the complaint that finally on 14.12.2008 A1 without assigning any reasons started quarrelling with a demand to immediately transfer properties in her name belongs to him and for refusal by complainant went on berserk by warning complainant to implicate him and his family members in false cases and after complainant left for his works, on the same day in his absence A1 went to her mother's house by taking all belongings from the complainant's house including original documents of the properties of the complainant besides blank pro notes and cheques belongs to vendors and borrowers of the complainant and which he could not pursue about her stealing the documents till 14.09.2011 when he received summons by LW-5 from VII MM Court, Cyberabad, Hayatnagar falsely filed by the complainant therein and on noticing the same, he went to A1's mother's house where she is living and requested to come back and join, but she refused to join him unless he transfers the properties and his assets in her name from which he could return back with no go. It is further averred, while so on 17.12.2008, A1 to just succeed in her illegal goals with malafide intention filed false report covered by crime No.761 of 2008 of Vanasthalipuram Police Station against him and his mother for the offence under Sections 498A, 366A IPC and Sections 3 and 4 of Dowry Prohibition Act and he was arrested and enlarged on bail besides his mother obtained anticipatory bail and he faced accusation from the police final report taken cognizance by the Magistrate concerned as C.C.No.53 of 2009 that was latter quashed in so far as the accusation against

his mother concerned in Crl.P.No.13245 of 2010 dt.28.03.2011 and after completion of trial in so far as the complainant concerned, the learned VII MM, Hayatnagar acquitted him by judgment dt.31.12.2012. It is further averred that A.Mutyalu, private complaint witness No.4 on 28.12.2008 telephoned to A1's phone number from his phone number by requesting to withdraw her case in C.C.No.53 of 2009 and the phone conversation recorded by the private complaint witness LW5 A.Saritha Goud, where A1 openly stated that it is a false case against the complainant herein which shows her evil mind and that A1 in furtherance of her further illegal acts filed a false case against Smt Saritha i.e., LW-5 of the complaint who is the vendor of the complainant under Section 138 of Negotiable Instruments Act vide C.C.No.613 of 2009 on the file of VII M.M.Cyberabad, Hyderabad by using the stolen cheques and documents while leaving the matrimonial house of the complainant. It is further averred that the complainant in fact purchased plot No.303 of Systematic Residency, Vydehi Nagar, Vanasthalipuram, Hyderabad from LW-5 of the complaint by paying an amount of Rs.7,50,000/- advance on 14.08.2008 and at that time taken original title deeds, one blank cheque bearing No.006479 and blank pro note duly signed by her to the complainant as security till registration of the plot for the ban of registration in the said locality and the cheque bouncing case later transferred and renumbered as CC.No.393 of 2011 is pending and the accused of the cheque bouncing case when approached and questioned him to his shock, he could realize A1 herein stolen the documents and misused. It is further averred that in February, 2010 the accused persons 1 and 2 of the private complaint with evil intention conspired and hatched plan to grab the plot No.303 of Systematic Residency, Vydehi Nagar, Vanasthalipuram, Hyderabad from Smt Saritha Goud, L.W.5 as it is remained vacant and on 07.02.2010 illegally taken possession by break open the lock and started residing therein with their family members and on 20.06.2012 when the complainant went to the Court to produce his evidence in the case from which A1 herein grew wild and abused in filthy and the same was entered in G.D. Entry of P.S., Hayatnagar. It was while so, A1 with malafide intention filed M.C. No.186 of 2009 against the complainant in Family Court, Ranga Reddy

District at L.B.Nagar suppressing her income and means including about her working as Staff Nurse in Government Hospital, she obtained ex parte order of maintenance dt.07.11.2011 of Rs.7,500/- each to his children and later due to his financial crisis, he filed revision in CrI.R.C.No.2105 of 2011 wherein interim order subject to payment of Rs.3,000/- each granted and same is pending. It is further averred A1 resorted to file false cases against the complainant in order to harass him and she also filed a false report to Vanasthalipuram Police covered by Crime No.905 of 2011 against him and Saritha Goud, LW-5 and another for offence punishable under Sections 341, 509 and 506 IPC later the complainant was enlarged on bail and police filed final report taken cognizance by VII MM, Cyberabad as C.C.No.700 of 2011 which was pending. It is further averred that A1 planned to kill the complainant by causing an accident to escape and on 22.03.2012 complainant filed a private complaint before XI MM against A1 to A3 for the offences punishable under Sections 379 and 307 read with 120 B IPC and the Magistrate referred to police, Chaitanyapuri for investigation, who registered Crime No.115 of 2012 which is pending. It is further averred that the complainant because of the acts of the accused and financial crisis sold out his plot No.391 of Karmanghat to one R.Sunil Kumar who later sold the same to N.Pullaiiah and Ch.Jangaiah, LWs.2 and 3 of the private complaint for consideration covered by sale deed No.16394 of 2012 dt.24.12.2012 and after that on 29.12.2012, some unknown persons grabbed the said property and on 30.12.2012 complainant went to the plot where A1 to A3 are found there and on noticing there some construction work is going on, the said Pullaiiah and Jangaiah, purchasers asked them to go away by stopping constructions for which they were threatened by saying A1 is the owner of the property and she obtained the same from complainant by Gift (Settlement) Agreement dt.14.09.2012 and produced Xerox copy of it to the said Pullaiiah and Jangaiah (LWs.2 and 3) and a perusal of the document shows that is a fake document and the complainant herein has never executed the same in favour of A1 and in fact A1 has been living separately from 2009 away to the complainant and there are several cases in between and there is no question of executing the alleged notarized gift or settlement and it is accused persons

1 to 3 who conspired and grabbed the property and the document was created as part of their plan to knock away the property and A1 applied for electrical connection behind his back for the same plot from CPDC of A.P., Ranga Reddy East Greater Hyderabad based on so called gift/settlement agreement and got temporary electricity connection vide P.R.No.90612012124 as part of their plan to grab the property and it is they later illegally taken possession and started illegal construction from 29.12.2012 by unheeding to the demands of the complainant and LWs.2 and 3, the purchasers from the complainant, hence to take action.

3. There are ten enclosures to the private complaint dt.21.01.2013 which the learned Magistrate referred the same to police for investigation and the police there from registered the crime on 18.02.2013 for the offences referred supra.

4. The contentions in the quash petition of A1 are that it is a false private complaint with so many allegations to falsely implead and proceedings are liable to be quashed. It is the contention that after marriage of complainant with A1, it is she(A1) while working as a staff nurse in Osmania General Hospital with her money purchased the said plot No.391 of Karmanghat Phase-I and without her knowledge by taking certified copy of the said document, defacto complainant created documents in favour of third parties taking advantage of the said plot is in his name though it is with her money the same was purchased and it is in her possession, she is making construction by obtaining electricity connection, and suppressing the real facts he filed the private complaint as if she forged the signature of him and created the document.

5. Heard and perused the material on record.

6. A perusal of the above clearly shows there are several litigations between A1 and complainant and even according to A1, the said plot No.391 standing in the name of her husband and according to him he purchased with his means and according to her it is with her money as a staff nurse she

purchased, however, in his name i.e., her husband.

7. It is a disputed aspect to be decided only during trial so also as to the electrical service connection admittedly obtained by her in making construction in plot No.391 by claiming in her possession is pursuant to the so called Gift/Settlement endorsed document and if so it is executed by her husband and is a genuine, otherwise, she might have caused forgery of the signature of her husband to show as if executed by him, and then it constitutes the offence under Section 420, 468, 471 or 406 or any of the offences including to read with Section 120B or under Section 506 IPC also as alleged by the complainant against her and two others, A2 and A3, thereby there is no material from this to quash the said crime proceedings. In fact police filed there from final report no doubt on the earlier complaint of her husband Sravan Kumar, covered by Cr.No.275 of 2011 of Vanasthalipuram Police Station, the police filed final report as lack of evidence and the other private complaint of Sravan Kumar against her and two others covered by Crime No.115 of 2012 dt.22.03.2012 for the offences under Section 420, 379, 307 read with 120B IPC of Chaitanyapuri Police Station referred from private complaint, there also Chaitanyapuri Police filed final report as lack of evidence. However those are not sufficient to say the present one is a false one or not and there is nothing to say beyond for this Court to go into the disputed questions of fact, that are required to be agitated before the trial Court, to quash the proceedings. No doubt it is the contention that the Magistrate for the sake of asking in the case on hand referred for police investigation without insisting her earlier giving of police report and filing of proof or even not going into the alleged notarized gift deed dt.14.09.2012.

The guidelines of ***Mrs.Priyanka Srivastava and Another v. State of U.P. &***

Others^[1] were not there as on the date of said FIR in fact private complaint referred to police who investigated the case as from the said private complaint particularly from paras 17 to 23, there are allegations against A1 in particular making out an accusation of constituting an offence and once such is the case merely because no reason assigned by the magistrate or not insisted for filing of any report earlier given to police that itself is not a ground

to quash the proceedings and further the earlier two crimes were referred as false reports filed is not a ground to say that present one is also false one when that too it is at the stage of investigation from the year 2013, to quash.

8. Having regard to the above by left open any remedy after the police to file report and taking cognizance by magistrate to agitate, the quash petition is liable to be dismissed for no grounds to quash the crime proceedings.

9. Accordingly, the Criminal Petition is dismissed.

10. Consequently, miscellaneous petitions pending if any shall stand closed.

Dr. B.SIVA SANKARA RAO, J

29th December, 2015.

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[\[1\]](#) AIR 2015 (SC) 1758