

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION Nos. 8052 & 8161 of 2015

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COMMON ORDER :

These criminal petitions are filed by the accused-Geetika Jaitly under Section 482 Cr.P.C to quash the proceedings in Crime No.90 of 2015 registered for the offence punishable under Section 379 I.P.C and Crime No.374 of 2014 registered for the offences punishable under Section 406, 420 and 506 I.P.C at the instance of her husband and father-in-law 2nd respondents in both cases in which the petitioner was shown as A-1 and A-4 respectively.

2) The complainant in Crime No.374 of 2014 by name Akshay Singh is the husband and the complainant in Crime No.90 of 2015 by name Sardar Iqbal Singh is the father-in-law, of the petitioner. The allegations in both the crimes against the petitioner are that after marriage she lived in the matrimonial home properly for a period of 4 to 5 months and thereafter she lived in adultery with one Anurag Shrivastava which she even admitted before her parents who came and take her to them, when the same was reduced to writing, that on 23.10.2013 the wife and husband applied for mutual divorce before Family Court, Hyderabad, that after filing the divorce petition, she started quarrelling with her husband and other family members by threatening them, that after counseling also she refused to join the company of her husband, that on 10.03.2014 she left the matrimonial home on the pretext of seeing her ailing uncle and did not turn up. It is thereafter her husband applied for fresh divorce petition by withdrawing the mutual consent petition and also filed a case against Anurag Srivastav with whom she is allegedly having extra marital relationship. It is further alleged that on 29.09.2014 when all the family members were about to go to attend a function, at that time opened the almirah lockers, that her father-in-law came to know that gold and diamond jewelry in the form of necklace, earrings including land documents were missing which she committed theft and as police did not register crime on even written report, he presented a private complaint, which was forwarded under Section 156(3) Cr.P.C that is registered as Crime No.90 of 2015 for the offence under Section

379 I.P.C. The other Crime No.374 of 2014 registered on the private complaint of her husband besides contain above averments further alleged that after applying divorce by mutual consent when he asked about her not appearing in the consent divorce petition, she has threatened him and his father that she will foist false cases against them for dowry harassment and she cheated him by suppressing her extra relationship with Srivastav before their marriage and thereby liable for offences under Sections 406, 420 and 506 I.P.C. It is impugning both the crimes, she filed CrI.P.No.8161 of 2015 to quash the F.I.R in Crime no.90 of 2015 and CrI.P.No.8052 of 2015 to quash the F.I.R in Crime No.374 of 2014.

3) Heard the learned counsel for petitioner as well as the State represented by the Public Prosecutor and perused the material on record. The defacto-complainant even served respectively, failed to attend. For the sake of convenience and to avoid confusion in both the petitions, the petitioner being referred as wife and the 2nd respondent/complainant in Criminal Petition No.8161 of 2015 is being referred as father-in-law and the 2nd respondent/complainant in Criminal Petition No.8052 of 2015 is being referred as husband of the petitioner.

4) The contentions of the petitioner in both the petitions are that since some disputes arose among the family members, her father-in-law and her husband forcefully obtained the signatures of her on several blank papers, cheques including divorce O.P which was filed on 23.10.2013, she was ill-treated right from the day of marriage however, on assurance of good behaviour by the family members she came back and again she was ill-treated, that she left for Mumbai to see her ailing uncle, that due to harassment petitioner informed her husband that she is not returning to Hyderabad on account of ill-treatment including the harassment for additional dowry, that later by making false, frivolous allegation against her with a view to spite her because she refused to appear the family Court at Hyderabad after reaching Mumbai, her husband and father-in-law foisted the false cases with ulterior motive for wreaking vengeance on her. The petitioner further contended that because of refusal to give consent for divorce, the cases are foisted falsely against her.

5) The undisputed facts, on perusal of both the private complaints, are that there are dispute arose among the family members and because of that a divorce petition was also filed initially by mutual consent and after withdrawal of the same by the husband, he filed a separate divorce petition against the petitioner.

6) As per the complaint averments, the petitioner left for Mumbai on 10.03.2014 later in the month of May, 2014 only the husband filed a private complaint (Crime No.374/2014) against the petitioner and others for the offences punishable under Sections 406, 420 and 506 I.P.C. It was even subsequently in September, 2014, the father-in-law of the petitioner allegedly found theft of gold and diamond jewelry and documents and however only in the month of December, 2014, the father-in-law filed a private complaint (Crime No.90 of 2015) against her for offence punishable under Section 379 I.P.C.

7) The very private complaint of the father-in-law supra covered by Crime No.90 of 2015 of Miyapur Police Station from reference by the learned Magistrate, speaks there was a consent divorce application dated 23.10.2013 by his son and the accused daughter-in-law and later the daughter failed to attend. It is averred she was having extra marital relationship with Anurag Shrivastav and on that day of consent divorce application dated 23.10.2013 she accepted the factum of her extra marital relationship with Shrivastav on a bond paper in writing that was witnessed by her parents by expressing apology to her husband and later she quarreled with by threatening to file false complaints and after counseling even she refused to join her son. It is there from saying on 10.03.2014 she left on the pretext of seeing her ailing uncle and later his son withdrew the consent divorce O.P. for her not attending family Court in the case and his son thereafter filed a case in Crime No.374 of 2014 which is also almost with self same averments supra a private complaint referred to police.

8) Had it been a true of the above averments, coming to the alleged offence of theft on 29.09.2014 by accused by opening the almirah since locker is opened of by mother-in-law of the accused and allegedly taken away the valuables. It is quite absurd to believe as observed in the very interim order of stay dated 27.08.2015. It is for the reason having allegedly she left for Mumbai on 10.03.2014 and not cooperating for the consent divorce by not coming back

from Mumbai, is it believable and she came again to the matrimonial home and if so when and on what pretext. In the absence of any specific say as to when for alleging on 29.09.2014 at about 11.00 A.M. when the complainant and her family members allegedly to attend a function of Deepak Annamaneni, opened the almirah, the accused to commit theft of the alleged land documents of Ac.2-00 and the alleged gold and diamond jewelry. When even to say taking advantage of the locker opened by her mother-in-law, could it be she all of a sudden for no reason even left the matrimonial home and un-checked when carrying. That is the only allegation even wife bereft of details for implicating her in the alleged offence of theft by her father-in-law and the learned Magistrate did not apply his mind before referring the private complaint to the police. It is also because even the so called occurrence on 29.09.2014 and the alleged complaint is registered three months latter, that was not even by any explanation for the delay. There are no any reasons even assigned by the learned Magistrate while referring the private complaint but for sake of asking. In fact, the consent divorce O.P. dismissed was on 12.06.2014 and the private complaint of the husband of the accused vide quash petition Crl.P.No.8052 of 2015 was prior to the dismissal of the O.P. No.1388 of 2013 dated 12.06.2014 even before reference by the Magistrate to the police for investigation in third week of May, 2014. The averments show she got illegal relationship with Anurag Shrivastav, A-2 and admitted in the undertaking given by her from which he filed divorce O.P, later she threatened the complainant and her father to foist in false cases. The learned Magistrate even did not apply his mind to the facts in referring but for sake of asking here also. Undisputedly marriage was dated 12.02.2012. It is not his case that he came to know of her extra marital relationship with Shrivastava, only just before the complaint is filed, even according to him and his father in the private complaints. The mutual divorce consent O.P. was pending there from and dismissed as referred supra on 12.06.2014 and her alleged adulterous life with so called Shrivastava, not even made a ground by filing any petition for divorce and that too it was knowingly a consent divorce application later filed if at all any truth by condoning her conduct and for alleged non-cooperation to come forward in the consent divorce petition, the filing of the complaint of so called non-disclosure of her adulterous life while performing her marriage with him is hardly believable to say not making out any offence under any of the Sections 406 or

420 or 506 I.P.C.

9) Having regard to the above, both the crimes are liable to be quashed for the proceedings cannot be allowed to continue to wreck vengeance or outcome of spite and ill-will to trouble, but for without prejudice to any civil remedies subject to fact foundations.

10) In the result, both the criminal petitions are allowed and all the proceedings in Crime No.374 of 2014 and Crime No.90 of 2015 of Miyapur Police Station, Cyberabad are quashed in respect of the petitioner concerned. The bail bonds of the accused, if any, shall stand cancelled. Miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

27.11.2015

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