

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.3784 of 2015

ORDER :

This Criminal Petition is filed by the Petitioners/accused Nos.1, 3, 4 under Section 482 Cr.P.C seeking to quash the proceedings in C.C No.572 of 2014 on the file of the Judicial Magistrate of First Class, Kovur, S.P.S.R Nellore District. The 1st respondent is the de facto complainant of Crime No.169 of 2014 of Buchireddipalem PS, dated 07.09.2014 registered for the offences punishable under Section 498-A IPC and Section 3 and 4 of D.P.Act.

2) Out of the four accused, the 2nd accused—father in law of de facto complainant stated to have breathed last at the post cognizance stage, thereby the petitioners sought for quashing of the charge sheet filed under Section 173 Cr.P.C that was taken cognizance by the Magistrate under Section 190 Cr.P.C for the offences supra.

3) Heard learned counsel for the petitioners and learned public prosecutor representing 2nd respondent—state before admission and before ordering any notice to 1st respondent—de facto complainant. Perused the material on record.

4) As per the contents in seeking quashment of the charge sheet against all the accused persons, who are now facing accusation, there is want of jurisdiction for the investigation by Buchireddipalem Police Station, which has

registered the crime and also in the filing of final report and taking cognizance by the learned Magistrate concerned under Section 177 to 189 Cr.P.C (Chapter 13). The other contention is that in the memorandum of understanding arrived between the accused persons and the de facto complainant vide dated 26.02.2014, the FIR allegations dated 07.09.2014 would not find place and equally in the divorce application filed by wife i.e., H.M.O.P. No.47 of 2014 on the file of the Senior Civil Judge, Kovvur, but for a stray sentence at para No.3 of page No.1 of the petition regarding the regular harassment by the respondent/ husband and his family members physically and mentally at Ongole for six months and later on she was dropped at Buchireddy Palem Bus Stand and left by her father-in-law. All the averments relating to FIR No.169 of 2014 also did not find place in the said divorce petition filed in June, 2014. Having regard to the above, the charge sheet is liable to be quashed against them.

5) Learned counsel for the petitioners placed reliance on the expression of Apex Court in ***Shakson Belthissor vs State of Kerala***^[1] in saying when the FIR itself is lack of material averments to attract the offence, it is a fit case to quash the proceedings under Section 482 Cr.P.C, there also the offence alleged was under Section 498-A r/w 34 IPC.

6) A perusal of the above material with reference to

the arguments and propositions of law, this Court finds that there are no grounds to quash the charge sheet for the following reasons:

The charge sheet clearly speaks the cause of action arisen at Buchireddypalem. Even the divorce petition filed by wife at para No.3 against the husband clearly speaks that the petitioner staying with the respondent at Ongole Town where all accused are residing. All of a sudden, she was ill treated by them and her father in law left her at Buchireddy Palem Bus stand and the subsequent harassment she is meted out as per the FIR at Buchireddy Palem. Once that case was examined under Section 177 Cr.P.C if not also under section 178 Cr.P.C, there is nothing for this Court while sitting in 482 Cr.P.C to hold prima facie of no causes of action or jurisdiction.

7) Even coming to the allegations, a perusal of telugu version of the complaint running in three pages (English version 2 pages) is crystal clear regarding the allegations of harassment in the hands of her husband and parents-in-law and among the accused persons since accused No.2 died, who is the father-in-law of de facto complainant and accused No.4 is brother of mother-in-law of de facto complainant and relative of husband.

8) Having regard to the above, once the accusation therefrom the statements of witnesses referred in the charge sheet also in support of it, this Court is unable to sit under quash proceedings of the charge sheet accusation against

the accused persons.

9) Having regard to the above, the application is dismissed. However, none of the observations will in any way influence the trial Court, if the petitioners file an application, to decide the same on its own merits.

10) As a sequel, miscellaneous petitions, if any filed in this Criminal Petition, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:03.06.2015
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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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