

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.6737 of 2015

ORDER:

This petition is filed by the petitioner/accused under Section 482 Cr.P.C. seeking to quash the proceedings in Crime No.65 of 2015 of Ramagundam Police Station, Karimangar District, registered for the offence punishable under Section 420 IPC at the instance of the 2nd respondent/*de facto* complainant.

2. The report of the *de facto* complainant in setting the law in motion, dated 28.6.2015, speaks that he is a lorry driver, resident of Temple Road, Ramagundam and his marriage with one Thota Rajitha was performed about six years back; that after the marriage, the couple lived happily for three months; that thereafter, all of a sudden, the said Rajitha left the house and went to her parents house; that after one year, she lodged a dowry harassment case against the *de facto* complainant at Pegadapally Police Station, in which mandal her parents at Cherla are residing; that in that regard, the *de facto* complainant approached the petitioner herein, who is an Advocate and he demanded an amount of Rs.78,000/- towards his fee, a sum of Rs.2,50,000/-, which has to be paid to the wife and daughter of the *de facto* complainant with regard to compromise of dowry harassment case; that on 16.08.2014, the *de facto* complainant met the Advocate at the house of one Thammineni Raja Kondaiah of Antargam village, which is very near to his sister's house and paid an amount of Rs.1,00,000/-; that on 27.08.2014, the *de facto* complainant along with one Kola Rammurthy went to the office of the petitioner and paid total amount of Rs.3,28,000/- i.e., Rs.78,000/- + Rs.2,50,000/-; that thereafter, the *de facto* complainant came to know that the petitioner did not pay much of the amount to his wife or daughter, therefore, on 15.05.2015, he approached the District Legal Services Authority, Karimnagar and submitted a complaint against the petitioner; that again on 11.06.2015, when the *de facto* complainant approached Legal Services Authority, he was informed that the petitioner's name was removed from the Legal Services Authority and advised to lodge a police complaint against him; that the *de facto* complainant approached Amarender Rao and some others at Godavarikhani Bar Association and hence, he prayed to take appropriate action

against the petitioner.

3. The contention of learned counsel for the petitioner is that the petitioner is an innocent person and there are no ingredients to attract the offence punishable under Section 420 IPC; that continuation of proceedings is nothing but abuse of process of law; that a false complaint has been foisted against the petitioner; that father of the petitioner also made a complaint against the 2nd respondent/*de facto* complainant on 04.06.2015 before Station House Officer, I-Town Police Station, Godavarikhani for taking necessary action for the nuisance committed by him; that after receipt of the said complainant, police did not take any steps, the petitioner and his father filed W.P.No.16965 of 2015 before this Court against police officers and the same is pending for instructions of the Government Pleader for Home; that in collusion with police, the 2nd respondent/*de facto* complainant lodged a false complaint against the petitioner; that the 2nd respondent also gave an affidavit in favour of the petitioner on 11.05.2015 and contrary to the said affidavit, he filed a false report against him before the police and hence, he prayed to quash the crime proceedings.

4. Notice ordered to the *de facto* complainant/2nd respondent even served and proof filed, failed to attend.

5. Heard learned counsel for the petitioner vis-a-vis the 1st respondent –State, represented by Public Prosecutor and perused the material on record. Though notice issued to the 2nd respondent/*de facto* complainant, failed to attend and hence, taken as heard.

6. According to the *de facto* complainant, the so-called payment of advocate fee of Rs.78,000/- besides Rs.2,50,000/- to be paid to his wife and daughter with regard to compromise of dowry harassment case, he paid the total amount to the petitioner on 27.08.2014. But he did not refer about obtaining of any receipt for the said amount in his complaint, dated 28.06.2015 though the so-called payment was made on 27.08.2014 i.e., ten months prior to the report. There is no version with regard to demand of money or passing of the receipt and there is no version about his sending any notice in this regard.

7. No doubt, there is nothing on record to show any element of cheating, but there is misappropriation of amount. However, the fact remains on 04.06.2015 itself the father of the petitioner lodged a report against the *de facto* complainant and others before I-Town Police Station, Godavarikhani and copy of the same is filed in this petition. The said report reads that on 04.06.2015, the *de facto* complainant along with 15 members came to the house of the petitioner and started abusing him and other family members and threatening the near by people by ringing the calling bells and knocking the doors by saying that in regard to the case lodged in Karimnagar Women Police Station, the *de facto* complainant paid cash and from the last nine months the petitioner was not in touch with him or he telephoned to him. For that act, they conduct dharna and create nuisance. Upon which, the wife of the petitioner informed them that the petitioner is not in the house. With regard to the said incident, the petitioner telephoned to Deputy Superintendent of Police and I –Town Police Station and hence, he prayed to take necessary against the 2nd respondent and others.

8. The petitioner also filed copy of the affidavit of the 2nd respondent, dated 11.05.2015, wherein it is stated that the 2nd respondent met the petitioner in respect of dowry harassment case filed by his wife against him; that in the month of September, 2014, the petitioner and elders went the Women Police Station, Karimnagar, for compromise of dowry harassment case filed by the wife of the *de facto* complainant with a condition to withdraw all other cases filed by her against the 2nd respondent; that but, the wife of the 2nd respondent did not sign on the compromise papers; that due to which the petitioner has not filed the consent divorce petition, where the divorce case is pending; that thereafter, the 2nd respondent did not met the petitioner; that on 27.04.2015, 2nd respondent went to Junior Civil Judge Court, Godavarikhani to meet the petitioner, but he did not found the petitioner; that in the mean time, one Meda Chakrapani, Advocate met him and he asked about his case details and accordingly, he informed the case details and thereupon he promised him that he can do justice and took him to the District Court and where he informed that the petitioner collected an amount of Rs.70,000/- from

the 2nd respondent, but for the last seven months he was not done anything; that thereupon the VI Additional District Judge, asked the 2nd respondent to submit an application to the I-Town police station in this regard. Accordingly, one Raje Komuraiah, who came along with the 2nd respondent, wrote an application and submitted the same in I-Town Police Station. However, the contents are not correct.

9. A perusal of the material supra shows that the dispute is in between the two Advocates' ill-feelings in giving the report. The affidavit of the *de facto* complainant shows that he paid an amount of Rs.70,000/- in all and even settlement is not arrived between the *de facto* complainant and his wife for taking consent divorce and for withdrawal of dowry harassment case. The *de facto* complainant has not paid any amount, consent divorce application was not filed and case is not withdrawn and later he did not meet the petitioner and when such is the case and even in the quash petition, the material filed not even disputed by *de facto* complainant, even served, not attended, it is a fit case to quash the proceedings. Basically Section 420 IPC has no application to the facts and there is nothing from the affidavit to say the *de facto* complainant paid the amount that was to be paid to his wife and daughter through the petitioner or he misappropriated the same which may come under the purview of Sections 406 or 408 or 409 IPC.

10. Accordingly, the Criminal Petition is allowed quashing the proceedings in Crime No.65 of 2015 of Ramagundam Police Station, Karimnagar District.

Dr. B. SIVA SANKARA RAO, J

Date: 25.11.2015

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