

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.7193 of 2016

ORDER:

The petitioner, who is accused No.1 in Crime No.158 of 2016 of Neredmet Police Station, Cyberabad, registered for the offences punishable under Sections 420, 493 read with 109 I.P.C., filed the instant criminal petition under Section 438 Cr.P.C. seeking anticipatory bail.

The *de facto* complainant, who is a software engineer at Hyderabad, reported to the Police of Neredmet alleging that the petitioner and herself were neighbours at Warisguda, Secunderabad, that he was married earlier and due to some disputes between himself and his first wife, they were living separately and that the petitioner developed intimacy with the *de facto* complainant on the promise that he would marry her after getting divorce from his first wife and thereby, both of them developed relationship as that of a husband and wife for ten years and that all through the said period, the *de facto* complainant has been waiting that the petitioner would marry her. The further allegation is that the petitioner started torturing and beating the *de facto* complainant whenever she talked to any male person and he took away all her earnings about three lakhs and cheated her. It is also alleged that he took videos of their close physical contacts and blackmailed her that he would post them on social media sites. Her complaint was registered as crime No.158 of 2016 of Neredmet Police Station, Cyberabad, for the

offences punishable under Sections 420, 493 read with Section 109 I.P.C. and the matter is now under investigation. Apprehending that he may be arrested during the investigation, the petitioner filed the instant criminal petition for anticipatory bail.

Sri Vedula Venkata Ramana, learned senior counsel appearing for Sri Kowturu Vinaya Kumar, learned counsel for the petitioner, while refuting the ascriptions against the petitioner submitted that the charge under Section 493 I.P.C. being non-cognizable offence, the Police ought not to have taken cognizance of the same. He further submitted that as regards the other charge under Section 420 I.P.C., there is no *prima facie* material to hold that the petitioner cheated the *de facto* complainant because even as per her own revelation, she knew that he was married earlier and still continued to cohabit with him for considerable time. In fact the petitioner filed O.P.No.5 of 2016 on the file of the Judge, Family Court, Ranga Reddy District, under Section 9 of the Hindu Marriage Act, 1955, for restitution of conjugal rights against the *de facto* complainant, wherein he clearly mentioned that the *de facto* complainant is his legally wedded wife and therefore, the question of the petitioner cheating her does not arise and therefore, the charge under Section 420 I.P.C. does not attract. He also submitted that as the petitioner is an employee, his judicial custody would adversely affect his employment and he thus sought for anticipatory bail.

In oppugnation, learned Public Prosecutor (TS) argued that the main allegation of the *de facto*

complainant is that the petitioner on the false promise that he would get divorce from his first wife and marry her, started having physical contacts with her and he did not fulfill his promise and that he took amounts from her and also took videos of their physical contacts and blackmailed her to upload them in social media sites and all these acts would squarely attract the offences punishable under Sections 420 and 493 I.P.C. He thus sought for dismissal of bail application.

As can be seen, the complaint discloses a *prima facie* case against the petitioner as he, on the promise that he would give divorce to his first wife and marry the *de facto* complainant, developed physical contact with her and continued it for a long period and took her earnings and also took videos of their physical contacts and blackmailed her. It appears he did not file any divorce application against his first wife if she really deserted him and on the other hand continued relationship with her. All these facts would *prima facie* attract the charge under Section 420 I.P.C.

As regards the other charge under Section 493 I.P.C., it is trite law that when a complaint attracts both cognizable and non-cognizable offences, the Police can investigate both the offences without the necessity of seeking permission from concerned Judicial Magistrate to investigate the non-cognizable offence.

Learned senior counsel submitted that accused Nos.2 to 4, who are parents and sister of the petitioner filed CrI.P.No.4707 of 2016 for grant of anticipatory bail and this Court, while disposing the said petition on

06.04.2016 observed that the investigation can be proceeded without arresting them and hence similar order may be passed in respect of present petitioner also. Accused Nos.2 to 4 stand on a different footing as the main allegation is against the petitioner - accused No.1 and as the investigation is under progress and not yet completed, this Court considers that this is not a fit case to grant anticipatory bail to the petitioner.

Accordingly, the Criminal Petition is dismissed directing the petitioner - accused No.1 to surrender before the concerned Court and file an application for regular bail, in which case, the said Court shall dispose of the said bail application, on merits, on the same day positively.

U.DURGA PRASAD RAO, J

19th May, 2016

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