

HON'BLE SRI JUSTICE M.S.K. JAISWAL

Criminal Petition No.9059 of 2010

ORDER:

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This Criminal Petition is filed by petitioners/accused 1 and 3 under Section 482 Cr.P.C. seeking to quash proceedings in C.C.No.323 of 2010 on the file of the Court of the VII Metropolitan Magistrate, Cyberabad, Hayathnagar, Ranga Reddy District, arising out of a private complaint having been forwarded to the police under Section 156 (c) Cr.P.C., for the offences punishable under Section 420 read with Section 34 IPC.

A case in Crime No.507 of 2009 was registered by Hayathnagar Police Station, Cyberabad, Ranga Reddy District against petitioners/A-1 and A-3 and non-petitioner/A-2 being the husband, mother-in-law and father-in-law respectively of the *de facto* complainant/2nd respondent herein. During pendency of the case,

A-2, who is father of A-1 and husband of A-3, died in the month of October, 2009. The allegations in the complaint of the 2nd respondent/*de facto* complainant, in brief, are that A-1/husband of *de facto* complainant and his parents have cheated her at the time of marriage by making her and her family members to believe that they belongs to same caste of Balija and also by misrepresenting the date of birth of the A-1/husband as 02-10-1978, instead of actual date of birth as 02-10-1973 and thereby cheated her. The 2nd respondent is a medical practitioner and her marriage with 1st petitioner/A-1 was settled through Shaadi.com. It is the specific case of the 2nd respondent that the 1st petitioner/A-1 and his parents have misrepresented the date of birth of the 1st

petitioner/A-1 and their caste being Baliya similar to that of *de facto* complainant. Thereafter, the 2nd respondent, having come to know about wrong date of birth of her husband-the 1st petitioner herein and the caste of her parents-in-law, found that they cheated her by suppressing the original date of birth of the 1st petitioner and their caste and thereby she made a private complaint before the learned VII Metropolitan Magistrate, Hayathnagar, Ranga Reddy District, which was forwarded to Hayathnagar Police Station under Section 156 (3) Cr.P.C., and the same was registered as Crime No.507 of 2009 for the offences punishable under Sections 323, 406, 420, 506 read with Section 34 IPC. After completion of investigation, the police filed the charge sheet being numbered as C.C.No.323 of 2010, which is challenged herein.

Heard the learned counsel for the petitioners, the learned counsel for the 2nd respondent and the learned Public Prosecutor.

The main grievance of the petitioner that is pleaded herein is that the 1st petitioner/A-1 and his family members have cheated the 2nd respondent/*de facto* complainant by suppressing the original date of birth of the 1st petitioner/A-1 and their caste and by believing her that they belongs to same caste of Baliya. The other ground is that the 2nd respondent/*de facto* complainant also made a complaint to Basavanagudi Women Police Station, Bangalore for the offences punishable under Sections 498-A, 420, 506 IPC read with Section 3 and 4 of Dowry Prohibition Act, which is registered as Crime No.42 of 2008. Learned counsel for the petitioners stated that on the same set of facts for the self-same offences, two complaints cannot be maintained and hence, the proceedings herein are liable to be quashed on that ground alone.

On perusal of the material on record, it appears that despite the present complaint, the 2nd respondent/*de facto* complainant also lodged a similar complaint to Basavanagudi Women Police Station, Bangalore. The averments in the complaint before the said police station shows that besides the allegations of harassment and cruelty for not fulfilling the demands of the accused therein, it also shows the allegations of suppression of original date of birth and the caste. The nature of the allegations in both the complainants are almost one and the same, except some of the allegations of harassment and cruelty. The case pending before the learned VII Metropolitan Magistrate, Hayathnagar pertains to the offences punishable under Sections 323, 406, 420, 506 IPC read with Section 34 IPC, while the case pending before the learned II Additional Metropolitan Magistrate, Bangalore City pertains to the offences punishable under Sections 498-A, 420, 506 IPC read with Sections 3 and 4 of Dowry Prohibition Act. It also appears from the record that both A-1 and the 2nd respondent also filed a petition seeking divorce and ultimately their marriage stood dissolved by granting decree of divorce.

Having regard to the above facts and circumstances of the case and in view of forceful contentions raised by the learned counsel for the petitioners, I am of the view that for the self-same offences on the same set of facts, two complaints against the same persons, though at different places, cannot be sustained in law. However, since a comprehensive case is pending at Bangalore, in which the allegations of harassment, cruelty as well as misrepresentation of date of birth and the nature of the caste are raised, the 2nd respondent/*de facto* complainant is at liberty to

pursue the same effectively. It is to be noted that the father of A-1, who arrayed as A-2 in the charge sheet died during the course of investigation.

In that view of the matter, the proceedings in C.C.No.323 of 2010 pending on the file of the learned VII Metropolitan Magistrate, Cyberabad, Hayathnagar, Ranga Reddy District are liable to be quashed.

Accordingly, the Criminal Petition is allowed and the proceedings in C.C.No.323 of 2010 pending on the file of the learned VII Metropolitan Magistrate, Cyberabad, Hayathnagar, Ranga Reddy District initiated against petitioners/A-1 and A-3 are quashed. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

M.S.K. JAISWAL, J

Date: 09-02-2016

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