

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.3189 of 2013

ORDER:

In this petition filed under Section 482 Cr.P.C., the petitioner/ accused seeks to quash the proceedings in C.C.No.12 of 2013 on the file of Judicial First Class Magistrate, Gajapathinagaram, Vizianagaram District.

2 a) The 2nd respondent filed complaint against the petitioner alleging that she is the wife of his younger brother —Venkata Ramana and there were some misunderstandings between the wife and husband resulted in filing some suits and a maintenance case against his brother and in order to wreak-vengeance, the accused filed a false case against the complainant for the offence under Sec.354 IPC and after full-fledged trial the Assistant Sessions Judge, Vizianagaram acquitted the complainant in S.C.No.104 of 2010 holding that there were no cogent and coherent reasons to believe that he committed the offence under Sec.354 IPC and due to prevailing disputes, the complainant might have foisted the case against the accused. No appeal is preferred against the said judgment and hence it attained finality.

b) The further case of complainant is that while the case was pending, the accused with a malafide intention to defame and also to humiliate the complainant, canvassed in

the village that the complainant was going to be convicted in the case. She also distributed copies of FIR and charge sheet in and around the village and caused much damage to the prestige and reputation of the complainant. The villagers used to question the complainant about his involvement in the case. When the case was pending though due to false report, the caste people stopped calling the complainant for the Panchayats and started commenting on his involvement in the case and thereby the complainant felt much humiliation and mental agony.

c) The above complaint was taken on file and registered as C.C.No.12 of 2013 by the Judicial First Class Magistrate, Gajapathinagaram, Vizianagaram District.

Hence the instant Criminal Petition.

3) Heard arguments of Sri T.M.K.Chaitanya, learned counsel for petitioner/accused, Sri Venkateswara Rao Gudapati, learned counsel for R2/complainant and learned Public Prosecutor for the State (AP).

4) Denying the complaint averments, learned counsel for petitioner sought for quashing the proceedings on the main submission that apart from the criminal case, the complainant also filed a civil suit—O.S.No.322 of 2012 on the file of Senior Civil Judge, Vizianagaram against the petitioner/accused claiming damages of Rs.3,00,000/- and all those proceedings are simultaneously launched by the

complainant only to harass her. He argued that when two simultaneous proceedings in Civil and Criminal side are initiated basing on the same facts, the criminal proceedings are required to be quashed or atleast stayed till the civil suit is disposed of. On this proposition, he relied upon the decision reported in **Satendra Kumar Gupta vs. A.B.Shorewal**^[1].

5) Per contra, learned counsel for 2nd respondent/complainant argued that civil and criminal proceedings are independent to each other and hence they can be initiated and prosecuted simultaneously and merely because they are initiated basing on the same facts, the criminal proceedings cannot be quashed or stayed.

6) Learned Public Prosecutor also argued in similar lines.

7) In the light of above rival arguments, the point for determination is:

“Whether there are merits in this petition to allow”

8) **POINT:** It is trite law that if the acts of a person gives scope to sprout both actionable civil wrong and criminal prosecution simultaneously, the choice rests on the aggrieved person to chose either both, one or none and Courts will not generally smother his efforts to vindicate his rights on a legal plank. That being the law, it has to be seen whether the criminal case filed by the complainant needs to

be quashed simply because he also filed parallelly a civil suit claiming damages on the ground that the petitioner/accused maliciously prosecuted him in a false case which ended in acquittal with the observation of the trial Court that the complainant might have foisted the case against the accused due to prevailing disputes.

a) A perusal of the complaint averments would reveal that apart from shoring up on the observations made in the judgment in S.C.No.104 of 2010 to the effect that the accused has not committed any offence under Sec.354 IPC and due to prevailing disputes PW.1 might have foisted the case against him, the 2nd respondent/complainant also rests his complaint on the averments that during the pendency of the complaint, the accused herein distributed copies of the FIR and charge sheet to the villagers and proclaimed as if the complainant would be punished and further, due to the pendency of the said case, the villagers stopped calling him to the Panchayats and thereby socially ostracised him and due to all these, he alleges, his reputation in the esteem of the public suffered low-ebb.

9) In ***State of Haryana vs. Bhajanlal***^[2], the Hon'ble Apex Court held that if the FIR and other material relied upon by the prosecution even if accepted to be true on their face value, still if no case is made out against the accused, then it is apt for the High Court to quash the proceedings

under its plenary powers. In the instant case, a perusal of the allegations in the complaint would *prima facie* reveal the ingredients under Sec.500 IPC and therefore, merely because the complainant also initiated civil suit claiming damages, on that ground the criminal case cannot be quashed.

a) In **Satendra Kumar Gupta's** case (1 supra), the Allahabad High Court having perused several decisions, has observed thus:

“Para 16: It follows from the above decisions that where civil and criminal proceedings with respect to the same matter are simultaneously going on, one of those proceedings can be stayed if the Court comes to the conclusion that the simultaneous pendency of the two proceedings is causing embarrassment to the parties concerned, but no hard and fast rule can be laid down as to which of those proceedings should generally be stayed. As a matter of fact expeditious disposal of criminal proceedings is to be given precedence over the disposal of civil suits so that criminal cases are decided when the events are still fresh in the public mind and the innocent should be absolved as early as possible, but there may be cases where considering the weight and binding effect of civil decisions it may be expedient in the interest of justice to stay criminal proceedings.”

As can be seen from the above observation, merely because two parallel proceedings, one on civil side and another on criminal side are pending, that is not a ground for quashing the criminal proceedings. On the other hand, what is observed in the above decision is that one of the proceedings can be stayed if the Court comes to the

conclusion that simultaneous proceedings are causing embarrassment to the parties concerned and no hard and fast rule can be laid down as to which of those proceedings should generally be stayed. Hence, the party who seeks either quashing or stay of the proceedings should establish to the satisfaction of the Court that two parallel proceedings causing embarrassment. In the instant case, the petitioner failed to show that the complaint allegations even if believed to be true, still do not reveal the commission of any offence nor the parallel proceedings cause any embarrassment. Therefore, I see no ground to quash the criminal proceedings.

10) In the result, this Criminal Petition is dismissed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE U. DURGA PRASAD RAO

Date: 17.06.2016

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[\[1\]](#) 1979 ACRR-0-21 (Allahabad)

[\[2\]](#) 1992 Supp (1) SCC 335 = AIR 1992 SC 604