

ORDER :

The petitioners A.1 to A.8 are the accused persons in Cr.No.892 of 2013 of the K.P.H.B. Police Station, Cyberabad. The 3rd respondent is the defacto complainant who is no other than the husband of A.1. The crime registered on 21.08.2013 is for the offences punishable under Sections 406, 420, 506 and 120-B of I.P.C., based on the private complaint of the 3rd respondent filed on 26.08.2013 seeking to refer to police for investigation. The private complaint referred 5 witnesses including the defacto-complainant and the others are by name B.Sheshagiri Rao and his wife Smt. B.Durga Bhavani, Ch. Koteswar and his wife Sirisha. The alleged offences stated occurred prior to 26.04.2012 and also subsequent to that date. There were 9 accused in all arrayed in the private complaint and it was enclosed with 11 documents viz; wedding card of the marriage between the defacto-complainant and A.1 dated 26.04.2012 performed at Moghulrajpuram, Vijayawada, under Hindu law and custom, marriage photos of defacto complainant and A.1, bio-data along with photos of A.1 stated sent by A.9 D.Ramaprasad Naidu of Narasaraopet, Guntur district, the Marriage Broker which was 28.03.2012, A.P. Bar Counsel enrollment particulars of A.1 as Advocate showing her date of birth as 05.02.1973, election ID cards (2 in number) showing difference in age of A.1, and application filed for election ID card, a copy of complaint sent to Commissioner of Police, Cyberabad, a copy of complaint to K.P.H.B. Police Station with postal receipts, dated 1/3.08.2013, a copy of complaint to Principal Secretary(Home) with postal receipts dated 30.07.2013 and DVC Case No.31 of 13 filed by A.1 against the defacto complaint and 4 others including the witnesses L.Ws. 2 to 5 cited in the private complaint supra no other than the parents, sister and sisters' husband of defacto-complainant. The learned Magistrate referred the complaint to police for investigation u/sec.Cr.P.C. and pursuant to which the crime was registered.

2. It is now impugning the same, the petitioners filed present quash petition admitting the A.1's marriage with the defacto complainant with the

contentions that it was stated to the Defacto-complainant even at the time of marriage that her age was erroneously entered in the S.S.C certificate and the same is further continued for educational purpose but her actual date of birth is 10-5-1979 but not 5-2-1973 for which the defacto-complainant and his parents stated that the age does not matter and cited several examples of their relatives and celebrities including Sachin Tendulkur (Cricketer) of similar cases and accepted for marriage and her date of birth is 10.05.1979 only which is already registered in the election records originally but never made any application subsequently for issuance of another election card at any point of time and the alleged election card seems to be a manipulated, fabricated and created document for the purpose of initiating false cases, that at the time of marriage, the defacto-complainant proclaimed that he was earning Rs.8,00,000/- in the business and this is what this information is kept with the marriage bureau of A.9 for suitable alliances but now in the present petition, he is contending that he is out of job from 2008 onwards, on account of recession. Even in the cause title, he has shown his occupation as nil which clearly shows that defacto-complainant has not come forward with true and correct statement of facts and in fact, he has given false statement. She has to face lot of difficulties even for the square meal in the house. She was not allowed to continue her practice. The defacto-complainant always doubting and was always not allowing her to move out but at the same time was not discharging his obligations as husband so much so he was not interested in sexual relation and with the support of his family members started to demand for additional dowry for which unable to bear his demands, she was forced to leave her matrimonial home and consequently to file a complaint u/Sec.498-A of I.P.C. and also DVC case vide DVC No.31 of 2013 on the file of the XIX metropolitan Magistrate, Miyapur at Cyberabad, which is pending, that the defacto-complainant is blackmailing her(A.1) and her family members(other accused), in the way of lodging complaints to the employer of A.2 who is working in the State Bank of India where asked him for explanation, that the other accused A.2 to A.8 are no way concerned and unnecessarily roped, that the XIX Metropolitan Magistrate, Miyapur, Cyberabad at Hyderabad, at Hyderabad did not apply his mind

while referring the same to police station even without scrutinizing the complaint as to whether the complaint allegations ex-facie make out a case under section 406,420, 506 and 120-B IPC or not, hence, to set aside the cognizance taken by the learned Magistrate.

3. Heard both sides and perused the material on record.

4. The contents of the private complaint in registration of the crime running in several pages in brief are that the A.2 is husband of A.3, A.6 is their daughter, A.5 is husband of A.4, A.7 is claimed as marriage broker.

The defacto-complainant, having completed his B.Tech. degree from Karnataka University, later M.B.A. in UK and M.Sc. from Queensland University and worked for some time at abroad and returned back in 2008 due to recession, contacted A.9-the marriage broker, with his bio-data for a suitable educated girl as a match to him, and on 20.03.2009, A.9 sent bio-data with a photo of A.1 through e-mail to complainant and his cousin, A.1 with dishonest intention to cheat the complainant sent the photograph of A.1 taken much prior to that date and in the bio-data her date of birth mentioned as 10.05.1979 and from believing her age as of 33 years and from the educational qualifications, informed to A.9 to arrange for the pre-marriage get together to see the proposed bride by the proposed groom and vice-versa and the same was arranged on 25.03.2012 and the defacto-complainant, his parents, his sister and brother-in-law and L.Ws. 1 to 5 went to Tenali where stayed in hotel where A.9 met them and took to the house of sister and brother-in-law of A.1(A.2 and A.3), there, the other accused 4,6,8 and 9 were also present. It is averred specifically that having seen and interacted with each other (the A.1 and defacto-complainant), liked each other and from that satisfaction accepted for marriage. It is averred that A.3,4,6,8 and 9 stated that the A.1 is aged about 33 years in confirmation of the bio-data suppressing her correct age and A.2,3,7 and 9 visited the house of the defacto-complainant and his parents and having satisfied with the antecedents and their family background, the marriage was arranged and performed later. It is averred that A.2 and A.3 demanded the parents of complainant to book function hall at Vijayawada and requested them to bear the marriage expenses saying they would provide at least some amount for marriage expenses.

It is further averred that from the age of the A.1, the defacto-complainant thought of A.1 is three years younger to him but over-aged, had he known as she is over-aged, he would not have accepted the marriage proposal, that he was informed by A.1,3,7 and 9 of A.1 is having good practice in profession. It is averred further of parents of defacto-complainant spent 5lakhs towards marriage expenses including for the function hall decoration, videograph, photographs, transportation, food and other arrangements including hotel stay and purchase of clothes, and for customary and sacred gold ornaments in performing the marriage on 26.04.2012 at Vijayawada and A.1 joined the defacto-complainant on the next day of marriage at their plot No.15, Sathavahana Nagar, Hyderabad.

It is averred since then A.1 started harassing the defacto-complainant and his parents and other family members with a demand to show documents of the properties of the defacto-complainant to lease out, that A.1 never cooperated even sexual intercourse by avoiding for one or the other reasons with a demand to transfer his properties in her name to serve as security for her leading marital life and never behaved like a normal hindu women but for abnormal and adamant and used to say her marriage was performed against her will by her sisters and brothers-in-law that she never used to respect his parents and sisters and never used to attend household duties, which created him mental agony led to suffer with Blood Pressure and damage of blood vessels in left eye vein which resulted him in heavy expenditure for treatment and he detailed the harassment he meted so also his family members in her hands in DVC No.31 of 2013, that on his enquiry from Bar Council, High Court, he knew that she is aged about 40 years and when questioned for furnishing false age details, she used to evade to answer and even threatened him to file a case against them on the cause of harassment by him and his family members, that as the A.1 failed in her attempts of getting transfer of properties in her name, she demanded him 10lakhs of amount for divorce for which the defacto-complainant and his family members refused, then she threatened him that she would send them to jail by way of false cases and in one occasion she uttered she get him killed by hired killers. That the A.1 to A.9 thereby suppressed the original age of the A.1 and conspired together and hatched a plan to cheat him and his family

members and played fraud against him. The A.1 even suppressed her age in the DVC case filed by her against him and also before the Election Officer and obtained two Election ID cards and one of which her age is shown as 40 years and so committed violation of provisions of the Representation of Peoples Act including criminal breach of trust, Cheating, Criminal intimidation and criminal conspiracy. Hence to take action against them.

5. In the complaint, it is categorically stated that it is the A.9 who entrusted the bio-data of A.1 to the defacto-complainant in which it is shown the age of A.1 as if 10.05.79 for the marriage proposal of Feb/March, 2012 before the marriage performed on 26.04.2012. The private complaint filed as referred supra was on 26.08.2013. It is even subsequent to the complaint filed by the A.1 through the Mandal Legal Services Authority(MLSA) dated 16.02.2013 and as per the defacto-complainant, he obtained the age proof of defacto-complainant through Bar Council of the then united state of A.P. and noticed her date of birth mentioned therein as 05.02.1973 and therefrom in saying she cheated him so also other accused. To say role of other accused i.e. two sisters, two brothers-in-law, one of the sisters daughter, one cousin and the other distant relative of A.1 also has privy, there is no basis what it stated is in the pre-marital(match making meeting) meeting at Tenali at the house of A.2 and A.3(brother-in-law and sister of A.1), the accused persons also stated as if A.1's age 33 years by then. It is the clear case of de facto complainant that from verification of bio-data and the photograph and in the match making meeting after interacting with each other and looking face to face by liking each other only, the proposal was accepted mutually and the marriage was performed. Once such is the case, there is no criminal intimidation in that regard to attract the offence under Section 506 IPC and there is no any breach of trust much less in committing breach of anything by entrustment. Even coming to any deception by A.1 supposed to know her correct age that too, having been practicing as an advocate with A.P.State Bar Council showing age 05.02.1973, in mentioning of her age in the bio-data as if 10.05.1979 by under-ageing herself of 6 years, for that the A.1 can be made liable and not the others. It appears because of the talks for divorce through the elders made and could not be fortified

and also for A.1 presenting complaint to the police besides and filing D.V.C. case, in C.C.No.1049 of 2013 pending against the defacto-complainant and L.Ws. 2 to 4-his parents, sister and sister's husband for the offences punishable under Section 498-A of IPC and Sections 3 and 4 of the Dowry Prohibition Act, to serve as a counter-blast, the defacto complainant, it appears on its face, implicated the other accused but for instead of only against A.1 and if at all with any specific averments against any of those by showing consciously aware of her date of birth and suppressed and given a wrong date of birth which tantamounts to deception in order to deceive him in communicating the marriage proposal. In fact, there is no any delivery of property or dominion over property or valuable security even from that marriage proposal but for what that is given is bio-data. In view of the above, there is no privy to the A.2 to A.8 in the above crime except A.1.

6. Having regard to the above, the Criminal Petition is allowed in part. So far as the A.2 to A.8 is concerned, the petition is allowed but the petition against A.1 is dismissed by directing the police to complete the investigation and file final report from outcome of investigation so far as A.1 concerned, however pending investigation not to arrest the A.1. Consequently, miscellaneous petitions, if any, pending in this criminal petition, shall stand closed.

Date:18.03.2016.
Vvr

Dr. B. SIVA SANKARA RAO, J