

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.15483 OF 2016

ORDER:

This Criminal Petition is filed to quash the proceedings in C.C. No.647 of 2016 on the file of Additional Judicial First Class Magistrate, Narsapur, West Godavari District for the offence punishable under Section 354-A of I.P.C.

Petitioner herein is the accused-Branch Manager, State Bank of India, Mogalthur.

Petitioner previously worked as Branch Manager, State Bank of India, Mogalturu, presently he is working as Manager, R.B.O. Bhimavaram, West Godavari District.

The allegations made against the petitioner is that about 2 months ago,, defacto complainant applied for loan in State Bank of India, Mogalthur and the Bank Officials granted Rs.1,00,000.- to her and as per the demand of Branch Manager, defacto complainant-P.Vani paid Rs.17,000/- to the Branch Manager towards bribe and Rs.50,000/- was deposited in the Bank and Rs.50,000/- was given to her and that at that time, the Branch Manager behaved in a disrespectful manner towards her and described her body beauties and harassed her to fulfill his sexual lust and the same was recorded by her in her cell phone and that she suffered mental agony due to sexual harassment etc., of the petitioner.

On the basis of complaint lodged by defacto complainant-Vani, Mogalturu police registered a case in Cr.No.115 of 2016, for the offences punishable under Section 354-A I.P.C. and investigated into and filed charge sheet.

Now the proceedings are challenged on three grounds.

- (1) Petitioner is public servant being Manager of State Bank of India as per Section 46 of Banking Regulation Act and therefore, the petitioner is entitled to claim protection under Section 197 of Cr.P.C.
- (2) There is abnormal unexplained delay in lodging the complaint as the complaint was lodged on 6-6-2016.
- (3) there are malafides and it amounts to abuse of process of court.

First and foremost contention raised by the counsel for the petitioner is that petitioner is public servant as defined under Section 46 of Banking Regulation Act, 1949 and petitioner was appointed as Manager. Manager and any other employee of the bank shall be deemed to be public servant for the purpose of Section 21 of I.P.C. which defined the word 'Public Servant'.

According to Section 197 of Cr.P.C., a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no court shall take cognizance of such offence.

But the petitioner is a Manager not removable by the President of India or the Governor of the state. The petitioner is not entitled to claim protection under Section 197 of Cr.P.C., on that ground proceedings in the above referred C.C. can not be quashed.

The second ground urged before this court is that there is abnormal unexplained delay in lodging the complaint since alleged offence under Section 354 I.P.C. whereas complaint was lodged on 6-6-2016.

The offence allegedly committed by the petitioner is punishable under Section 354-A of I.P.C. which is having its own impact on the person and family members and failure to lodge complaint immediately after the incident cannot be a ground to quash the proceedings since the incident behavior against the defacto complainant involved the family reputation and it would cause stigma on the family members. The delay can be explained during trial by the defacto complainant. If the court satisfied with the explanation for the delay, the court can take necessary action against the petitioner-accused but delay itself is not a ground to quash the proceedings at pre-trial stage.

The other ground is malafidies in lodging complaint but practically nothing is brought on record to show as to how this defacto complainant Vani lodged complaint with malafide intention and in fact, there were no disputes between the petitioner and defacto complaint earlier as alleged but for the first time, only when

she applied for sanction of loan in State Bank of India, the petitioner had occasion to have contact with her in connection with release of loan amount.

Therefore, in the absence of any enmity or animosity against the petitioner, it is difficult to accept that the complaint is malafide one and it cannot form basis for quashing the proceedings. Hence, I find no ground to quash the proceedings in C.C.No.647 of 2016 on the file of Additional Judicial First Class Magistrate, Narasapur, West Godavari District at this stage and as such, this petition is liable to be dismissed.

It is made clear that observations, if any, made in this order will have no bearing in the case pending before the court below. The petitioner is permitted to raise all his objections which are permissible under law before the trial court.

Accordingly, this Criminal Petition is dismissed at the stage of admission.

As a sequel to the disposal of this petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

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JUSTICE M.SATYANARAYANA MURTHY

Dated 1-11-2016.

Dvs.

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY



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Dated 1-11-2016.

Dvs