

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.2188 of 2015

ORDER:

This revision is preferred under Sections 397 and 401 of Code of Criminal Procedure (for short "Cr.P.C.") questioning the legality of the order dated 21.07..2015 passed in CC SR.No.2726 of 2015 by the Judicial Magistrate of First Class, Special Mobile Court – cum – XI Metropolitan Magistrate, Cyberabad, L.B.Nagar, whereby the Magistrate found that no *prima facie* material is available against the respondents to constitute the offence punishable under Section 500 of Indian Penal Code (for short "I.P.C.") and dismissed the private complaint filed by the petitioner.

The main grievance of the petitioner is that the petitioner filed the private complaint making serious allegations against the respondents/accused that accused No.1 on his daughter's birthday i.e. on 10.12.2013 instigated his daughter in preparing a fabricated complaint and defamed the complainant. Similarly accused No.1 on his son's birthday i.e. on 10.12.2013 instigated his daughter and made a document with false statements getting visibly signed by his daughter - accused No.2 and published the false statements with a criminal intention to tarnish the image of the complainant, as such accused No.1 sent letter to complainant's ex-employer insisting them to update their employee records with the false information. It is also

contended that with a criminal intent to harm the complainant's reputation at work place, the accused wrongfully sent a written representation to complainant's ex-employer, mentioning that the complainant was booked under Domestic Violence case, which is false as there is no such case booked against the complainant. On account of sending such information, the image and reputation of the petitioner was tarnished.

Basis for filing of private complaint by the petitioner herein is the letter dated 10.12.2013 signed by Sowmya, w/o Desiraju Phani Kiran, who is arrayed as accused No.2 in the private complaint. The said letter dated 10.12.2013 consisting of only seven lines. Letter dated 10.12.2013 is extracted hereunder.

"Dear Sir,

This is to bring to your notice that Mr.Desiraju Phani Kiran, S/o D.V.Rama Rao, who worked in your organization as Technology Analyst (TA) was booked under atrocities against women, domestic violence and dowry harassment and an FIR was registered against him under Sections 498-A IPC, 406 IPC, 506 IPC, 3 DPA, 4 DPA of Indian Penal Code vide FIR No.180/2013 by Saroor Nagar Women Police Station. He was arrested, was under judicial custody and spent 6 days in jail from 23/9/13 to 28/9/13. A look out certificate is also issued against him that prevents him from going overseas. This is for your information and updation of his biodata in your records."

The Magistrate dismissed the private complaint having found no grounds to proceed against the respondents – accused.

In the present revision, it is contended that though there is sufficient material to establish *prima facie* case

against the respondents to proceed against them for the offence punishable under Section 500 of I.P.C., but the Magistrate erroneously dismissed the complaint at the threshold recording a specific finding.

Whereas, the learned counsel for the respondents contended that in the letter dated 10.12.2013 an information was passed on to the employer regarding registration of a case against the petitioner for the offence punishable under Section 498-A, 406, 506 of I.P.C. and under Sections 3 and 4 of Dowry Prohibition Act vide F.I.R.No.180 of 2013 of Saroor Nagar Women Police Station. He was under judicial custody and spent 6 days in jail from 23.09.2013 to 28.09.2013. The said allegation made in the letter dated 10.12.2013 is true, thereby it does not amount to defamation and supported the order passed by the Magistrate.

As stated above, lodging of complaint against the petitioner and registration of F.I.R.No.180 of 2013 on the file of Saroor Nagar Women Police Station for the offence punishable under Section 498-A, 406, 506 of I.P.C. and under Sections 3 and 4 of Dowry Prohibition Act, which is pending before the Court is an undisputed fact.

The main contention before this Court is that the respondent No.2 made an allegation that she was subjected to domestic violence. The language used in the letter dated 10.12.2013 is clear that a case was booked against the petitioner for atrocities, domestic violence and dowry

harassment, but in fact no domestic violence case was filed and the question of filing Domestic Violence Case directly by respondent No.2 does not arise except following the due procedure. Though the language used in the letter may indicate that she was subjected to some sort of domestic violence. Moreover, demand of dowry, subjecting her to cruelty for her failure to meet illegal demand for payment of dowry would fall within the definition of domestic violence. Since no petition under Section 12 of the Protection of Women from Domestic Violence Act is filed through Protection Officer, the allegations would not attract defamation.

If the totality of the allegations made in the complaint are taken into consideration, the contents of the letter dated 10.12.2013 are true and correct. In such case, it is difficult to hold that the respondent Nos.1 to 3 committed any offence much less an offence punishable under Section 500 of I.P.C. Therefore, based on material available on record, considering the letter dated 10.12.2013 Magistrate rightly concluded that the petitioner failed to make out a case against respondents – accused for the offence punishable under Section 500 of I.P.C. and dismissed the petition, such order, which is now under challenge, cannot be interfered with, while exercising power under Sections 397 and 401 of I.P.C. Hence, I find no ground to set aside the order passed by the Magistrate. Consequently, the criminal revision case is liable to be dismissed.

In the result, the criminal revision case is dismissed. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

23.10.2017

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