

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRLP.NO. 703 OF 2017

ORDER:

The sole petitioner sought to quash the proceedings in C.C.No.68 of 2015 on the file of the I Additional Chief Metropolitan Magistrate, Visakhapatnam.

2. The petitioner alleged to have committed the offences punishable under Sections 354, 354-B, 355, 341 and 506 of IPC.

3. Heard Sri M.R.S. Sinivas, learned counsel for the petitioner and the learned Public Prosecutor for the State of Andhra Pradesh.

4. The main submissions of the learned counsel for the petitioner are that the investigating officer when filing the charge sheet improved the case from that of the case projected by the de facto complainant; that the father of the de facto complainant is working in police department and deliberately such improvements have been made in the charge sheet at his instance.

5. The main allegation is that the version occurring in the complaint filed by the petitioner has to be disbelieved on account of the improvements now made in the charge sheet.

6. To appreciate the submissions made by the learned counsel, it is desirable to look at the version occurring in the complaint. The de facto complainant was pursuing 2<sup>nd</sup> year M.S. Ortho P.G. Programme in Andhra Medical College by staying in the Women's P.G. Hostel; while she was pursuing medicine in NRI Medical College, Guntur, she met the petitioner herein through common friends; she was told that the petitioner was senior to her in the same

high school in which she studied and belong to the same area and therefore, she moved with him as a friend like other friends; the petitioner studied M.B.B.S in Karnataka State, doing House Surgeoncy in Siddhartha Medical College, Vijayawada and he was moving with her like other friends and only for the last seven months, prior to lodging of the complaint she was not talking to him; she told him and warned him that she treated him as a friend and had no other opinion; she informed her parents Venkateshwar Rao and Rathna Kumari; on 25.08.2014, after completing her duties in KGHS, she moved to hostel, on the way the petitioner stopped her at hostel premises and forced her to accept the proposal of marriage, thinking that he would kill her, she tried to speak over phone, but he picked her hand and taken the cell phone and threw it; he has taken her ear phones and forced and she immediately went to the hostel and informed the same to her friends and staff of the hostel; some of the neighbouring people witnessed the incident; again on 01.09.2014, the petitioner enquired the hostel staff about her to know her whereabouts; thus, the petitioner has been threatening to kill her with dire consequences; the petitioner also called and threatened her senior Doctor (PG) K.Satish not to help her and the petitioner is continuously moving in the hostel premises and giving warning to her and, therefore, she lodged a complaint against the petitioner requesting to protect her.

7. In the charge sheet while narrating the incident, the investigating officer has mentioned that on 25.08.2014, at about 1700 hours, the petitioner wrongfully restrained the de facto

complainant while she was returning to her hostel from King George hospital along with her friend, Vonuganti Lakshmi Sumana and threatened to kill her if she did not consent to marry him and the de facto complainant rejected the petitioner following which he caught hold of her shoulders and shook her violently and further assaulted her and pulled her chudidar and chunni with intent to disrobe her and dishonor her and when she tried to talk on her cell phone, he grabbed the cell phone and threw it on ground and taken away her earphones and then the de facto complainant rescued herself and went inside the hostel and informed the hostel staff.

8. Learned counsel for the petitioner projects the improvements that have been made firstly; Vonuganti Lakshmi Sumana who is cited as LW-2 was not accompanying her as per her version in the complaint; whereas in the charge sheet it is shown by the police that she was along with the de facto complainant when she was intervened by the petitioner herein; second; the petitioner holding her shoulders and shaking her violently is not spoken by her in the complaint; and third; pulling the Chudidar and chunni with intent to disrobe the de facto complainant was not being spoken to by her in the complaint.

9. Basing on these three circumstances, the learned counsel for the petitioner would request the Court to quash the proceedings against the petitioner which the learned Public Prosecutor strongly resisted.

10. At the outset, firstly, the complaint cannot be construed as an encyclopedia, even if certain things are mentioned over and above, then what was contained in the complaint, the same cannot gain any prominence as the charge sheet cannot be construed as substantive piece of evidence, when the basic version contained in the complaint referred to above, makes out prima facie allegations supporting the offences alleged against the petitioner, certainly the proceedings against the petitioner cannot be quashed. It is needless to observe that these aspects can be confronted to the witnesses when they stepped into box to depose including the investigating officer as contemplated by the explanation to Section 162 of Cr.P.C.

11. Therefore, it is not a case where the proceedings against the petitioner in C.C.No.68 of 2015 can be quashed as of no abuse of process can be culled out nor can it be said that the material placed before the Court through the charge sheet, complaint and 161 Cr.P.C. statement, it cannot be said that there is no allegation of worth name to support the offences alleged against the petitioner.

12. In the result, the petition is, therefore, dismissed.

As a sequel thereto, miscellaneous applications, if any, pending in the petition, stand closed.

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A. SHANKAR NARAYANA, J

Date:01.02.2017  
Ccm

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