

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 12388 OF 2015

ORDER:

This criminal petition is filed under Section 482 of Criminal Procedure Code (for short, "Cr.P.C.") to quash the proceedings in C.C.No. 181 of 2015 on the file of the Court of I Metropolitan Magistrate, Vijayawada City, Krishna District (for short, 'the Court below').

2. The Sub Inspector of Police, Penamaluru Police Station, Vijayawada City, filed charge sheet before the Court below for the offence punishable under Sections 420 and 506 read with Section 34 of the Indian Penal Code (for short, 'I.P.C.') in crime No. 26 of 2015 of Penamaluru Police Station, Vijayawada City, against the petitioners and two others. The contents of the charge sheet disclosed that Rayapati Soubhagya Lakshmi (L.W.1) – *de facto* complainant and the petitioners herein are closely related. Petitioner No. 1 is daughter of L.W.1, petitioner No. 2 is husband of petitioner No. 1 and petitioner No. 3 is daughter of petitioner Nos. 1 and 2. The main allegations made against the petitioners are that son of L.W.1 by name R.V.S.R.Ramachand studied M.Sc. (Electronics) at his grandmother's house and he went to America and doing job and got married. The marriage of accused No. 4 was performed with petitioner No. 3. On 06-08-2014, petitioner Nos. 1 to 3 and accused No. 4 came to the house of L.W.1, informed that Panchela Function of nephew of petitioner No. 3 to be performed on 10-08-2014 and accused No. 4 asked L.W.1 to give her gold bangles to attend the said function. Accordingly, L.W.1 believed and replied that she kept the gold bangles in the house of her brother Kilaru Vijaya Prasad (L.W.3). On that, L.W.1 and her servant Parvathi (L.W.4) along with the petitioners and accused Nos. 4 and 5 went to the house of L.W.3 and took the

four gold bangles weighing about 66 grams and gave the same to accused No.

4. At that time, the petitioners and accused No. 4 requested L.W.1 to purchase gold vaddanam at Malabar Gold Shop, Vijayawada, promised to return the gold bangles and also promised to pay the cost of vaddanam within ten days. After one month, L.W.1 came to the petitioners and accused Nos. 4 and 5 and demanded for return of the bangles and payment of amount *i.e.* cost of vaddanam but they threatened L.W.1 that they will file cases against her. They also said that Ramchand was not born to her and also threatened her with dire consequences. Thus, the petitioners and accused Nos. 4 and 5 cheated L.W.1 and intimidated criminally.

3. L.W.1 lodged compliant making allegations to attract the offence punishable under Sections 420 and 506 read with Section 34 I.P.C. but it is stated in the F.I.R. that the petitioners threatened to file cases against L.W.1 but not otherwise. However, there is little improvement during examination of the witnesses under Section 161 Cr.P.C. and made certain allegations to attract the offence punishable under Section 506 I.P.C. for criminal intimidation as defined under Section 503 I.P.C. The main contention of the petitioners is that the dispute is only on account of civil litigation pending before various Courts including the Writ Petition filed before this Court. It is also contended that the allegations made in the charge sheet would not constitute the offence and at best, it would be a civil wrong *i.e.* breach of promise and therefore the petitioners cannot be proceeded for the offence punishable under Sections 420 and 506 I.P.C.

4. Undoubtedly, while deciding petition under Section 482 Cr.P.C. to quash charge sheet, this Court is required to look into the allegations made in the charge sheet and the material produced along with the charge sheet by the

police under Section 172 Cr.P.C. A bare look at the allegations made in the charge sheet, those allegations would attract the offence punishable under Sections 420 I.P.C. *prima facie*. However, the statements recorded by the police, more particularly the statement of L.W.1, would show that the petitioners threatened her to foist cases in Court of law. Similarly, Kilaru Naga Rajya Lakshmi (L.W.2), wife of L.W.3, also stated before police during her examination under Section 161 Cr.P.C. At best, those allegations with regard to threatening to file cases against L.W.1 would not attract the offence punishable under Section 506 I.P.C. Section 503 I.P.C. defined the word criminal intimidation and it is extracted hereunder for better appreciation:

"503 I.P.C. – Criminal Intimidation:

Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threats, commits criminal intimidation."

In the instant case, the allegation made against the petitioners both in the F.I.R. and in the statements recorded by the police under Section 161 Cr.P.C. that they along with accused Nos. 4 and 5 threatened L.W.1 to file cases in Court of law would not fall within the definition of criminal intimidation as defined under Section 503 I.P.C. Therefore, filing of charge sheet by the investigating agency against these petitioners for the offence punishable under Section 506 I.P.C. is nothing but abuse of process of law.

5. The other contention of learned counsel for the petitioners is that the petitioners took the four bangles weighing 66 grams for attending Panchela Function of nephew of petitioner No. 3 and got L.W.1 purchased gold vaddanam

in Malabar Gold Shop with a promise to return the gold bangles and pay the cost of vaddanam within ten days. No doubt, the allegation made in the charge sheet disclosed that the petitioners made L.W.1 to part with the available property *i.e.* gold bangles and vaddanam and therefore it would fall within the definition of cheating as defined under Section 415 I.P.C. *prima facie*. Whether or not the petitioners had any dishonest intention in making such false representations to part with the property of L.W.1 is a question of fact to be decided at the end of the trial. Hence, I find that the allegations made in the charge sheet would *prima facie* constitute the offence punishable under Section 420 I.P.C.

6. Pendency of civil litigation and other litigation is not a ground to quash the proceedings since civil suit is outcome of bitter enmity between the parties regarding division of properties and that may be one of the reasons to commit an offence or foist a false case, since, motive is a double edged weapon and it is relevant under Section 8 of Indian Evidence Act, 1872, and not a substantive piece of evidence. At this stage, it is difficult for this Court to accept the contention of the petitioners.

7. On overall consideration of material available on record, I find no ground to quash the proceedings against the petitioners for the offence punishable under Section 420 I.P.C. while finding that the allegations made in the material produced along with the charge sheet disclosed that the petitioners did commit no offence punishable under Section 506 I.P.C. Therefore, the proceedings against the petitioners for the offence punishable under Section 506 I.P.C. are quashed while permitting the Court below to proceed against the petitioners for the offence punishable under Section 420 read with Section 34 I.P.C. but subject to exercise of power under Section 216 of Cr.P.C. by the Court below.

8. The criminal petition is accordingly partly allowed. Pending miscellaneous petitions, if any, in this criminal petition shall stand closed in consequence.

Date: 15-11-2017.
JSK

M.SATYANARAYANA MURTHY, J.

