

HON'BLE Dr.JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.9418 of 2016

ORDER

The petitioner-A.2 including A.1-husband of the deceased by name Vineela, who is sister of the defacto-complainant/2nd respondent herein) in PRC No.9 of 2016 on the file of IV Addl. Judl.Magistrate of First Class, for offences punishable u/sec.304-B and 109 IPC in Cr.No.289 of 2015 of Nellore Rural Police Station, registered on the report dt.14.08.2015 of the 2nd respondent-defacto-complainant, preferred the Criminal Petition to quash the proceedings against him in the PRC supra.

2. The averments of the complaint of the defacto-complainant are that he along with his sister-Vineela were residents of Kaveri Nagar, Kottur, Nellore and her marriage was performed on 08.02.2015 with one Paduchuru Viswanath-A.1 s/o. Venkata Chalapathi resident of Anantapur district, and A.1 is working as Professor in DVR College of Engineering, Kandi, Hyderabad and residing with his mother at Moosapet, Hyderabad and the deceased-Vineela was working as AEO in Agriculture Department at Podalakuru on deputation. At the time of marriage, they gave 5lakhs cash as dowry, 20tulas of gold, and 2kgs of silver. From the joining of his sister in marital life with A.1, he regularly used to harass his sister-Vineela mentally and physically. A.1 demanded to arrange 15lakhs to establish business if she want him to come to Nellore to lead marital life with her, otherwise he would not come and even not responded to her phone calls. In this regard, his sister also reported to

Nellore Women Police Station. But not changing his attitude, he challenged her to report wherever she likes, for which she underwent severe mental agony. While so, on 13.08.2015 she consumed pesticide and became unconscious. While shifting her to hospital, on the way she died. Hence, the complaint.

3. The contentions in the grounds of quash petition are that the only allegation against the petitioner-A.2 herein being brother of A.1 is that he unwantedly interfered and demanded additional dowry and threatened them with dire consequences to the family of deceased otherwise A.1 cannot come and live with the deceased is baseless without particular date or time. Vineela died due to torture of A.1 only but he has no connection with the allegations leveled against him and on perusal of entire allegations in the chargesheet are against A.1 only. It is further alleged in the chargesheet that after said incident A.1 started harassment for additional dowry by phone. On that the deceased presented a report before the Women Police Station, Nellore, on the same both parties attended for counseling. Again A.1 threatened with dire consequences by phone. In fact the deceased was worked as AEO, in the Agricultural Department in Nellore District and A.1 worked as a faculty in the DVR College of Engineering, Hyderabad and they lived together for few days only. A perusal of the complaint shows that there is not even a single allegation against him. In fact, the petitioner-A.2 is working in a private sector at Anantapur and he is not at all connected with the disputes between A.1 and the deceased. The petitioner-A.2 falsely implicated in the above crime and he is

innocent and he never committed any harassment towards the deceased and never involved in the family affairs of A.1 and the deceased. Since the marriage of the deceased and A.1, he never visited the house of A.1 or the deceased house. Even perusal of the statements recorded by the police also, nowhere, it is alleged against the petitioner. The allegations in the complaint does not attract against the petitioner more particularly offence u/sec.304-B and 109IPC. Hence, to quash the proceedings in the above crime against him.

4. Heard the learned counsel for the quash petitioner/A.2 who reiterated the above contentions. Whereas, it is the submission of the learned counsel for the 2nd respondent/defacto-complainant and the 1st respondent-State represented by the learned Public Prosecutor that there are allegations with basis even against the petitioner/A.2 and it is from the police investigation substantiating the allegations which make out a case against the petitioner/A.2, therefrom the cognizance was taken on the final report and the case is to be committed to the Court of Sessions by the learned Magistrate since triable by it. Hence, the quash petition is liable to be dismissed.

5. In the report of the defacto-complainant no other than brother of the deceased, so far as the petitioner/ A.2-Raghunadh no other than brother of A.1 Viswanath concerned, there is no specific allegation against the petitioner/ A.2 but for against A.1 only of dowry harassment in driving her to commit suicide in registering

crime for the offence u/ sec.304-B IPC on 14.08.2015 of her suicide on 13.08.2015. Even in the remand report of the petitioner/ A.2 dated 03.11.2015, what it was mentioned is so far as the petitioner/ A.2, if any, is that on 23.09.2015, the petitioner/ A.2 voluntarily surrendered before the Sub Divisional Police Officer at 17.30hours and he was arrested after observing formalities and remanding him to judicial custody and there is no any sustainable accusation even whisper in the remand report against the petitioner/ A.2. Coming to the investigation statements, the defacto-complainant as L.W.1, in the course of his examination on 14.08.2015 not whispered anything against the petitioner/ A.2 but for entire allegations against A.1-Viswanath only. LW2 B.Umamaheshwara Rao of Nellore also did not whisper anything against the petitioner-A.2 but for saying the A.1 was doing all the acts at the instigation of his brother. L.Ws. 3 and 4-the sisters of the deceased also did not whisper anything against the petitioner. Even the L.Ws. 5 and 6-so called circumstantial witnesses stated against A.1 only and not whispered anything against A.2 but for of a stray sentence saying A.1 is acting at the instance of the petitioner/ A.2. The other witnesses are regarding scene observation mahazar, inquest, and postmortem examination and the Investigating Officers. Thus, from the above but for the stray sentence as vaguely as anything and as rightly pointed out by the quash petitioner, there is no any worth material much less to say at the instigation of A.2, A.1 is harassing the deceased much less by mentioning any specific overt acts with date, time or instances.

Thus, the cognizance taken against the petitioner/ A.2 by the trial Court from the police final report for the offences supra, is not sustainable.

6. In the result, the Criminal Petition is allowed by quashing the cognizance taken by the learned Magistrate in PRC No.9 of 2016 against the petitioner/A.2 and he is acquitted and his bail bonds shall stand cancelled.

7. Consequently, miscellaneous petitions, if any, pending in this Criminal Petition, shall stand closed.

Date:08.12.2017

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Dr. B.SIVA SANKARA RAO J,

