

HONOURABLE SRI JUSTICE N. BALAYOGI

CRIMINAL PETITION No.7920 OF 2011

ORDER:

1. The petitioners, who are arrayed as Accused Nos. 1,2 and 4 in C.C.No.168 of 2011 pending adjudication on the file of learned Additional Junior Civil Judge cum Judicial First Class Magistrate, Bapatla, Guntur District, filed this criminal petition under Section 482 Cr.P.C. seeking to quash the aforesaid proceedings.

2. The contention of the petitioners/accused is that the second petitioner never received cash of Rs.40,000/-, gold ring and signed the agreement. It is contended that the first respondent did not make out any offence against the petitioners/accused punishable under Sections 406, 420, 107 read with Section 34 IPC. It is further contended that the first respondent/de facto complainant filed present complaint as counter blast case to the DVC filed by the second petitioner.

3. None appeared for the first respondent/de facto complainant. Heard learned Counsel for the petitioners/Accused and learned Public Prosecutor appearing for the second respondent-State. Perused the material on record.

4. Learned Public Prosecutor submitted that in the settlement took place before the elders on the date of death ceremony of husband of the second petitioner, the first petitioner having received cash and gold ring on behalf of the second petitioner executed the agreement on the same day, i.e. on 29.05.2010.

5. A perusal of the complaint goes to suggest that the first petitioner/Accused No.1 is the father of second petitioner/Accused No.2. The first respondent is none other than the father-in-law of the second petitioner. The complaint further goes to suggest that marriage between the second petitioner and son of the complainant was performed on 14.09.2009 and while taking treatment for the decease of white jaundice, the husband of the second petitioner died on 15.5.2010 and death ceremony was conducted on 29.05.2010, on which day, the complainant gave cash of Rs.40,000/- and gold ring to his daughter-in-law i.e. second petitioner and the same was reduced into writing.

6. In the acknowledgment/agreement, there is clear mention that marriage was performed on 14.09.2009 between the second petitioner and son of the de facto complainant/first respondent and while undergoing treatment for while jaundice, the son of the first respondent died on 15.5.2010 in General Hospital, Guntur. There is a specific assertion in the acknowledgment given

by the first petitioner that the amount of 40,000/- and gold ring, which was given by him (first petitioner) to the first respondent towards dowry on occasion of marriage of second petitioner, was received back by him (first petitioner) from the first respondent in the presence of elders who attended the death ceremony on 29.05.2010. It is further mentioned therein that the first petitioner and second petitioner should not make any claim for property from, or, initiate civil/criminal cases against, the first respondent. The same was reduced into writing on a Rs.50/- stamp paper and signed by nine persons including the first petitioner/Accused No.1. It is thus clear that as per the said undertaking/agreement, petitioners 1 and 2 should not file civil or criminal cases against the first respondent in the near future. In spite of the same, having received the amount and gold ring and executed the agreement, on 29.5.1010, the second petitioner filed DVC No.7 of 2010, which attracts the offences punishable under Sections 406, 420, 107 read with Section 34 IPC.

7. Thus, having heard the learned Counsel for the petitioners and learned Public Prosecutor for the State and perused the material on record, prima face there are no valid grounds to quash the proceedings initiated against the petitioners. I do not see any abuse of process of Court in initiating the proceedings against the petitioners.

8. In view of the same, the Criminal Petition is dismissed while vacating the interim stay granted by this Court in CrI.P.M.P.No.8430 of 2011 on 05.09.2011.

9. Miscellaneous petitions pending consideration if any in the appeal shall stand closed in consequence.

JUSTICE N. BALAYOGI

DATED 26th October, 2017.
Msnr_x

