

HON'BLE SRI JUSTICE Dr. B. SIVA SANKARA RAO

CRIMINAL PETITION No.7124 of 2017

ORDER:

Heard learned counsel for the petitioners/A.1 and A.2 of crime No.223 of 2016 of Burgampahad Police Station, Khammam District, registered for the offences punishable under Sections 506 r/w 34 IPC and Sections 3(1)(r) & (s) of SC & ST (POA) amended Act, and also learned Public Prosecutor representing the 1st respondent State and perused the grounds urged in the quash petition and the contents of the FIR.

The very report of the defacto complainant which is registered as the above crime supra is that the defacto complainant working as employee in ITC company and the A.1 D.Srinivas Reddy is also working with him and A.2 wife of A.1 is house wife. Having believed the accused, complainant subscribed chits and also paid 18 months for an amount of Rs.6,13,800/- and thereafter they stopped the chits, when the complainant requested them to pay the amount they promised to pay the said amount along with interest and postponed. On 14.07.2016 at around 8.00 AM, when the complainant with his parents went to the house of the accused and the accused instructed not to come to their house and abused in their caste as 'mala' and threatened to kill if they visit their house again and warned that they will not pay the amount and to challenge by way of complaint wherever they want, besides send a notice from the lawyer. From the above situation, the parents of the defacto complainant were fallen sick and hospitalized and hence to take action.

The contentions in the quash petition filed by the petitioners are that the accused are innocent and they were falsely implicated

in the above offences and the A.1 and the complainant are working in ITC company as worker and manager respectively and the complainant used to harass the accused for no reason and when questioned about the same by the accused, the complainant bore grudge against A.1 and planned to take revenge by way of this false complaint. It is averred that complainant vaguely stated that he has paid some amount to accused as a chit amount without there being any evidence and not submitted even a single receipt as a proof of payment and therefore said allegation is baseless and without any proof and the same cannot be relied. It is further averred that the alleged offence taken place on 14.07.2016 and whereas the complaint lodged on 01.10.2016 that itself shows the complaint is false and fabricated and there is delay of three months in lodging the complaint and the entire complaint speaks of money transaction, which is a matter of civil dispute and the same cannot be attracted any criminal offence. It is also averred that A.2 is house wife and even as per the complaint averments there is no any transaction between the complainant and A.2, even on the date of alleged incident A.2 was stationed at Amritha Vishwa Vidyapeetham at Amrithapuri Campus, Kollam Kerala for the purpose of paying the fee and also visiting her son who is studying engineering course on 13.07.2016 and in this regard she traveled from Secunderabad to Kerala vide electronic receipt dated 11.07.2016 and stayed there till 14.07.2016 and it indicates above complaint is false, frivolous and fabricated to harass the accused. It is further averred that the accused are not aware of the community of the complaint till filing of the complaint and filed the false complaint against the accused without any iota of evidence

and the provisions of SC & ST Act has no application. It is also averred that A.1 is a regular employee of ITC company and he attended duties every day from registration of crime i.e., 01.10.2016 to till date on 03.05.2017 under the manager ship of the complainant and A.1 is not aware of any complaint against him till date but recently on 03.05.2017, he came to know when the police constables came to his house and informed about the criminal case and seeking for quashing the proceedings of the criminal case by allowing the criminal petition.

Though notice served on the 2nd respondent, he called absence is a sufficient service, hence taken as heard.

This Court on 17.08.2017 passed interim order of investigation shall go on and pending investigation, the accused shall not be arrested.

Having regard to the above, there is nothing to interdict the investigation from the interim order, however, there is unexplained delay of above 2½ months from date of occurrence to date of report which aspect itself is suffice to quash the crime proceedings apart from other contentions in the quash petition in the ends of justice.

Accordingly and in the result, the Criminal Petition is allowed by quashing the crime proceedings against the petitioner-accused and the bail bonds of accused-petitioner, if any, stand cancelled.

Consequently, miscellaneous petitions, if any shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 01.11.2017
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