

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1449 OF 2017

ORDER:

The present Criminal Petition is filed by accused Nos.2 and 3 respectively under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code') requesting to quash the First Information Report in Crime No.204 of 2015 of Women Police Station, Visakhapatnam City.

2. The petitioners alleged to have committed the offences punishable under Section 498A IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012.

3. Sri I. Gopal Sharma, learned counsel for the petitioners, would submit that the petitioners are falsely implicated; there was no occasion for the petitioners either to threaten or to instigate the husband of the *de facto* complainant, who is respondent No.2 herein; the only allegation in the complaint is to the effect that both the petitioners, who are husband and wife herein and brother of accused No.1, who is not a party to the present petition, alleged to have pounced upon the *de facto* complainant and warned her to keep quiet and not to intimate the incident which relates to accused No.1, who alleged to have sexually assaulted her daughter who was born through accused No.1 himself, threatening her that in case she informs anyone, they would make her life miserable.

4. The learned Additional Public Prosecutor for the State of Andhra Pradesh would strongly oppose the request.

5. It is astonishing to note the averments of the complaint. Accused No.1, who married the *de facto* complainant, while she was working as a governess in his house, by making a promise that he would financially help her in her studies as she discontinued her studies and facing financial problems and his first wife died and he took divorce from the second wife and she has to look after the children, she agreed and on 25.01.2007; he married her and it was a registered marriage; thereafter, he enjoyed her and even got aborted several times; without her knowledge, taken some videos in his laptop while they were involved in sexual acts and prepared a blue film and used to show it to his friends and even threatened her that he would market the video if she asked her for open marriage.

i) When she lodged a complaint with Nala Sopara Police Station, Mumbai, in the year 2006, the police registered a case and arrested him and he was in judicial remand for three months and later he agreed to marry her requesting her to help him to get bail and after getting bail, he did not marry her and at last when he had disputes with his sister for partition of properties, he approached her and married her in the year 2007. Later, she became pregnant and begotten a child, though, he resisted to have a child and, thus, physically and mentally with the active assistance of his younger

brother and the wife of younger brother, harassed her. Thus, she narrates the acts of harassment meted out to her and even being continued after 2013, in which year, she shifted to Visakhapatnam to a house purchased by them in the year 2010.

ii) The complaint also shows that the petitioners are residents of Visakhapatnam; that on 19.08.2015, accused No.1 came to Visakhapatnam, but did not come to her house and directly went to the school of her elder daughter, picked her and in the enroute he harassed her sexually and dropped her at her house near the cellar and went away and before leaving at the cellar, he warned her daughter not to disclose anything to her and threatened her daughter that they would kill her if she discloses to anyone and did not turn up on that day. When she learnt the same, she approached the petitioners and when intimated them the incident, instead of chastising her husband, they pounced upon her and warned her not to intimate the same to anyone or otherwise they would make her life miserable.

6. In the presence of these allegations, the submission of the learned counsel that there is no material at all to show the complicity of the petitioners appears to be incorrect. The very threat imposed on her not to inform the incident to anyone and in case she informs, they would make her life miserable is sufficient to view that there is *prima facie* material and it is not a case for quashing the FIR against the petitioners, and it is a case where investigation shall have to go on.

Therefore, the Criminal Petition is dismissed. As a sequel thereto, miscellaneous petitions, if any, pending in the petition, stand closed.

A. SHANKAR NARAYANA, J

March 01, 2017.

Mgr

