

THE HON'BLE SRI JUSTICE P. KESAVA RAO

CRIMINAL PETITION No.6475 OF 2010

O R D E R:

Heard the learned counsel for the petitioner and the learned Public Prosecutor.

The notice issued to the second respondent could not be served whereby this Court directed substituted service. Accordingly, notice was published in a local newspaper on 10.5.2016 to the effect that the present Criminal Petition is posted on 17.6.2016 for the appearance of the second respondent. In spite of the same, the second respondent did not make her appearance either in person or through engaging counsel.

The facts of the case are that originally the second respondent, lodged a complaint on 14.7.2009 stating that on 21.5.2009 she married one M.D.Ali in the presence of her parents. She studied upto Intermediate and hails from a very poor family. She learnt Arabic at her grandmother's residence at Tolichowki for one year. When she was with her grandmother, she was sent to one Md.Yakub Ali for doing domestic work for a salary of Rs.1500/- per month in the year 2006. At that time, the said Md. Yakub Ali harassed her mentally and physically. Thereafter, she left his house and married to M.D. Ali. After marrying M.D. Ali, Md. Yakub Ali prepared a document with her photo and distributed in the locality by affixing Rs.5 and Rs.10 currency. Later, he used to talk to her through phone nos.9052443331 and 9052244332 and abused her with filthy language. He also abused by saying that he needs to marry her and spend one night with her. Therefore, she filed complaint before the Sub Inspector of Police, P.S. Ghatkesar, Cyberabad. In pursuance of

the said complaint, a crime was registered vide FIR.No.186/2009 for the offences under sections 294(a), 507 and 509 IPC. After investigation, a charge sheet was filed on 17.9.2009. After filing charge sheet, the court below has taken cognizance of the same and numbered the case as C.C.No.2176 of 2009. Aggrieved by the same, the present Criminal Petition is filed by the petitioner to quash the proceedings in C.C.No.2176 of 2009

Counsel for the petitioner would contend that a perusal of the charge sheet would not reveal any *prima facie* case against the petitioner. Even the statements recorded by the police during the course of investigation also indicate that all the witnesses were suspecting that the petitioner herein could have distributed the alleged pamphlets. A perusal of the charge sheet also indicate that no such pamphlet was seized. He also contends that the offences under sections 294(a) and 507 IPC are not cognizable offences and the same have to be taken on record by filing a private complaint. As far as offence under section 509 IPC is concerned, no pamphlet was seized and as such none of the offences mentioned in the charge sheet are applicable. Therefore, he sought to quash the proceedings.

Though notice was served on the second respondent by way of substituted service, she has not chosen to appear. Learned Public Prosecutor also fairly conceded that the basic ingredients satisfying offences under sections 294(a), 507 and 509 IPC are not made out against the petitioner, from a perusal of the charge sheet.

This Court, after going through the charge sheet and the material enclosed thereto, would notice that the charge sheet is filed only based on the suspicion entertained by the second respondent and the statements of the witnesses that are recorded. A person cannot be charge sheeted and cannot be proceeded with on the basis of suspicion. Therefore, there is no *prima faice* case made out against

the petitioner and the proceedings initiated for the alleged offences, as stated supra, are liable to be quashed.

Accordingly, the Criminal Petition is allowed quashing the proceedings initiated against the petitioner in C.C.No.2176 of 2009 on the file of XIII Metropolitan Magistrate, Rangareddy District. Interim orders shall stand vacated.

Miscellaneous petitions pending, if any, in this Criminal Petition shall stand closed.

JUSTICE P.KESHA RAO

Date: 5/12/2017

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