

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.11389 OF 2017

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (Cr.P.C.) to quash the proceedings in C.C.No.687 of 2017 pending on the file of the XI Metropolitan Magistrate, Cyberabad at L.B.Nagar.

2. The de-facto complainant is the respondent-Smt Avusala Bhagyalaxmi, aged 35 years, lodged a complaint against the petitioner herein with the police making serious allegations. On the strength of the report, the police registered a case against the petitioner and thereafter, took up the investigation and examined 7 witnesses. According to the material collected by the investigating agency, the accused is a retired BSNL employee residing at Katikonikunta, Champapet and the de-facto complainant staying at the house of the accused from the year 2013 as tenant by paying house rent and that the accused was moving in front of the de-facto complainant's room without wearing cloths except wearing underwear between 9 PM to 10 PM in the absence of her husband and harassed her sexually and threatened with dire consequence and when the de-facto complainant decided to vacate the house the accused objected them and instigated her to take divorce and if she takes divorce, he would provide all facilities to her and her children and proposed for conjugal life with him. Thus, the

petitioner/accused committed an offence punishable under Section 354-A IPC.

3. Though the petitioner is aged about 72 years, the material collected by the investigating agency made out commission of offence, punishable under Section 354-A IPC. The allegations made by the de-facto complainant disclose the prima facie case against the petitioner. Hence, this Court cannot quash the proceedings.

4. To quash the proceedings, the Court is required to go into the allegations in the complaint, which on its face value would not constitute an offence punishable under any of the penal provisions, this Court can exercise its power under Section 482 Cr.P.C. and quash the proceedings.

5. In **State of Haryana v. Bhajan Lal**¹ this Court considered in detail the scope of provisions of Section 482 and the power of the High Court to quash criminal proceedings or FIR. The Apex Court summarized the legal position by laying down the following guidelines to be followed by High Courts in exercise of their inherent powers to quash a criminal complaint:

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

¹ 1992 Supp. (1) SCC 335

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non- cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

6. As seen from the allegations made in the complaint, the petitioner is aged about 72 years and that there is an age disparity of 36 years between the second respondent/de-facto complainant and the petitioner and this is not the ground to quash the proceedings since the allegations in the charge

sheet and the evidence collected by the investigating agency during investigation of the case disclosed the commission of prima facie offence under Section 354-A IPC that is sexual harassment of a woman.

7. Even if the guidelines laid down by the Apex Court are applied to the present facts of the case, I do not find any ground to quash the proceedings at this stage. Hence, I find no ground to exercise power under Section 482 Cr.P.C. to quash the proceedings in C.C.No.687 of 2017.

8. The Criminal Petition is dismissed. Miscellaneous petitions, if any, pending shall stand dismissed.



JUSTICE M.SATYANARAYANA MURTHY

Date: 22.11.2017
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