

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.10487 OF 2017

ORDER:

This criminal petition is filed under Section 482 Cr.P.C, questioning the proceedings in C.C.No.306 of 2016 passed by the I Additional Chief Metropolitan Magistrate, Vijayawada for the offences punishable under Section 420 IPC and Sections 3 & 4 of Prize Chits and Money Circulation Scheme (Banning) Act, 1978, mainly on three grounds.

The first ground is that, the petitioner/A-2 who is the divorced husband of Smt. Chedaram Ramadevi/A-1 and the marriage between A-2 and A-1 was dissolved by decree dated 19.09.2000 in O.P.No.364 of 2000, passed by the Family Court at Vijayawada.

The second ground is that the First Information Report does not disclose involvement of this petitioner.

The third ground is that, based on the statements recorded by the police under Section 161 Cr.P.C, this petitioner was arrayed as A-2 in the said crime and filed charge sheet.

In view of the specific contentions raised at the stage of admission, it is apposite to advert to the allegations made in the First Information Report which disclosed that the A-1 and her husband i.e. the peititoner/A-2 abused the defacto complainant/second respondent in filthy language and when he questioned about payment of chit amount, as he is a member of the chit. The last paragraph of the complaint dated 28.03.2016 lodged by the defacto complainant with the police, the name of the petitioner was mentioned. Hence, the contention of the learned counsel for the petitioner that there was no allegation of the petitioner's name in F.I.R for the offences mentioned

supra, and it is devoid of merits. On this ground, the charge sheet cannot be quashed at this stage.

The other contention of the learned counsel for the petitioner is that the marriage between A-1 and A-2 was dissolved by decree dated 19.09.2000 in O.P.No.364 of 2000, passed by the Family Court at Vijayawada. But, as seen from the contents of the decree, both parties appeared in person and the Court decided the matter on merits. It is not known whether A-1 alone appeared in person before the Family Court at Vijayawada or impersonated by any other person.

In any view of the matter, when A-1 & A-2 are living as wife and husband and as per investigation the proceedings cannot be dropped, since they are continuing to live as wife and husband, as per the material collected by the police during investigation.

Apart from the allegations in the F.I.R and the statements recorded by the police during investigation under Section 161 Cr.P.C disclosed commission of offence by this petitioner and after collecting evidence during investigation, the police concluded that the petitioner along with A-1 committed such offences punishable under Section 420 IPC and Sections 3 & 4 of Prize Chits and Money Circulation Scheme (Banning) Act, 1978. Whether the petitioner actually participated in commission of offence or not is a question to be decided at the end of trial. But, at this stage, when the charge sheet disclosed commission of an offence by this petitioner, this Court cannot exercise power under Section 482 Cr.P.C and quash the proceedings. Therefore, I find no ground to quash the proceedings, since the charge sheet disclosed *prima facie* material that the petitioner also committed offence punishable under Section 420 IPC and Sections 3 & 4 of Prize Chits

and Money Circulation Scheme (Banning) Act, 1978. Hence, I find no merit in this contention and consequently, the petition is liable to be dismissed.

In the result, the criminal petition is dismissed, at the stage of admission.

Consequently, miscellaneous petitions pending, if any, shall also stand dismissed.

JUSTICE M. SATYANARAYANA MURTHY

Dated:13.11.2017

SP

