

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.10220 OF 2017

ORDER

This Criminal Petition is filed under Section 482 Cr.P.C. seeking to quash the proceedings in Crime No.94 of 2017 of Gadwal Town Police Station, Jogulamba District, registered for the offences punishable under Sections 376, 420, 417, 328 and 509 I.P.C. based on the report lodged by 2nd respondent-G.Aruna against the petitioner-A.2

But, the police after investigation, found that the allegations made in the report were false and proceeded to take action against the 2nd respondent and arrayed her as A.1 in the said crime by substituting the offences punishable under Sections 182, 195, 420, 419, 120-B read with 34 IPC.

Learned counsel for the petitioner submits that when the 2nd respondent lodged a complaint before the police, if for any reason, it is found to be false and the police intended to take action against her for any of the offences alleged, a separate crime has to be registered and she cannot be arrayed as A.1 in the said crime, which is a different and distinct one.

Learned Additional Public Prosecutor admitted that the police have to follow the procedure and file a final report under Section 173(2) Cr.P.C. referring the case as a mistake of fact or otherwise and if they intend to take action against the 2nd respondent, they have to register a separate crime.

It is an undisputed fact that the 2nd respondent lodged a complaint with regard to fraud and commission of rape by the petitioner. But, unfortunately, the police for the reasons best

known to them, arrayed the 2nd respondent as A.1 in the said crime by substituting different offences without filing any final report before the Magistrate under Section 173(2) Cr.P.C. and the procedure adopted by the investigating agency is irregular.

Therefore, the proceedings in Crime No.94 of 2017 of Gadwal Town Police Station, Jogulamba District, are hereby quashed and the Criminal Petition is allowed. However, it is open to the police to take action against the 2nd respondent, if permissible under law, by registering a separate crime against the 2nd respondent.

Miscellaneous petitions pending, if any, shall stand closed.

Date: 09.11.2017
ssp

M. SATYANARAYANA MURTHY, J

