

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Crl.P.No.11929 of 2017

ORDER

This criminal petition is filed under Section 482 of Criminal Procedure Code to quash the proceedings in C.C.No.211 of 2017 pending on the file of II Additional Chief Metropolitan Magistrate, Vijayawada, registered for the offence punishable under Section 354-D of IPC.

2. The mother of the victim girl, by name, Merlyn Patta, lodged a report with the police alleging that her daughter, Kum Deborah Patta, was followed by the petitioner/accused despite her resistance while she was offering prayer in the King's Temple Church, Secunderabad, on every Friday and Sunday. It is further alleged that the petitioner/accused used to attend the Church to offer prayers initially as good as other believers. Later, he changed his mind and for the past one and half years, the accused used to sit in the front row and stare at the victim girl and used to follow her out of the Church and tease her and stalk her. Even though she warned the accused that she will inform the incident to the elders and to file a case, the petitioner did not change his attitude and that on the occasion of birthday of the victim on 06.11.2016, the accused sent a gold chain through some person. The de-facto complainant returned the same and sent a warning through one Putimidi Syam-L.W.5.

3. It is further alleged that on 13.02.2017, the de-facto complainant, victim, Samuel R. Patta, Steven Patta, Putimidi Syam

and Dowski Deepak Avinash (LWs.1 to 6) came to Vijayawada to attend prayer meetings scheduled to be conducted on 14.02.2017 at IV Palace, Vijayawada, on behalf of the King's Temple Church, Secunderabad. They checked in hotel gate way. On 14.02.2017, when the said six persons and other members of their Church attended prayers at IV Palace, Vijayawada, the accused having come to know that the victim is going to Vijayawada, came to Vijayawada, followed her even during prayers, behaved in a manner of causing insult to her, then, the victim felt insulted due to the behaviour of the accused and after the prayers, the accused stood in front of the palace and when the above six persons were going to hotel gate way, the accused followed the victim . Thus, the petitioner committed the offence punishable under Section 354-D of IPC i.e., stalking. On the basis of the compliant, the police registered a case in Cr.No.40 of 2017 for the said offence and after completion of investigation, police filed charge sheet against the accused.

4. The only contention of petitioner before this Court is that the allegations made in the charge sheet would not constitute the offence punishable under Section 354-D of IPC and that when the incident initially took place at Secunderabad, the victim did not come forward to give a report to the police against the petitioner and that only on account of the complaint lodged by the mother of the victim, the proceedings cannot be continued against the petitioner for the offence punishable under Section 354 of IPC.

5. The offence 'stalking' is defined under Section 354-D of IPC. According to it, any man who follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman.

6. Here in this case, the petitioner allegedly followed and attempted to contact the victim to foster personal interaction repeatedly despite a clear indication of disinterest by such woman. The alleged act of the petitioner would *prima facie* falls under Clause (i) of Section 354-D IPC. Therefore, the contention that the petitioner did commit no offence punishable under Section 354-D of IPC and the allegation would not constitute such offence is of no merit and on that ground, the proceedings in C.C.No.211 of 2017 cannot be quashed against him.

7. The other contention urged before this Court is that the victim girl did not lodge any report with the police and only her mother lodged the complaint against the petitioner with an ulterior motive. The mother of the victim is competent to give information about the occurrence of cognizable offence. Section 39 of Cr.P.C., deals with the competency of person to give information about certain offences.

8. Here, the offence allegedly committed by the petitioner is punishable under Section 354-D of IPC, but the provision in Code of Criminal Procedure, 1973 is not amended corresponding to amendment of IPC. Since the mother of the victim girl is competent to give information about the commission of offence, on the ground that the victim girl did not lodge a complaint, the proceedings cannot

be quashed. Therefore, I find no ground to quash the proceedings at this stage against the petitioner since the allegations made in the charge sheet disclose the commission of offence punishable under Section 354-D of IPC. Consequently, the criminal petition is liable to be dismissed.

9. In the result, the Criminal Petition is dismissed, at the stage of admission.

10. Miscellaneous petitions, if any, pending in this criminal petition shall stand dismissed.

5th December, 2017

sj

M. SATYANARAYANA MURTHY, J

