

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.12408 of 2017

ORDER

This petition is filed under Section 482 of Cr.P.C., to quash the proceedings in C.C.No.70 of 2017 pending on the file of I Additional Judicial Magistrate of First Class, Godavarikhani, Peddapalli District, registered for the offence punishable under Section 354-D IPC, against the petitioner/accused.

2. The second respondent, by name, Indla Rishitha @ Ramadevi, lodged a report with the police, alleging that some unknown person sent objectionable messages to her cell phone No.9949166607 from the cell phone Nos.9701085684, 9700370435, 8897094047, 9866864264, 7207253659, 8686702687 and 8501856054. On the basis of the said report dated 28.06.2016, the police registered a case in Cr.No.200 of 2016 for the offence punishable under Section 354-D of IPC, issued FIR and took up the investigation. During investigation, the Inspector of Police recorded the statements of the victim and other witnesses under Section 161 Cr.P.C., and after completion of investigation, he filed charge sheet before the Court below.

3. Now, the contention of petitioner before this Court is that the question of obtaining the passport photo and aadhar card of the second respondent by him and the question of sending the messages from the sim card obtained in the name of the second respondent does not arise and therefore, the proceedings are liable to be quashed since the petitioner did commit no such offence.

4. During hearing, counsel for petitioner would draw the attention of this Court to the report lodged with the police and the statement recoded by the police during investigation, and on the strength of the allegations made in the said report and the statements, he contended that a false case is foisted against the petitioner and requested this Court to quash the proceedings.

5. As seen from the report dated 28.06.2016 lodged by the second respondent, the allegation was that she was receiving messages in objectionable language from the phone numbers, referred supra, whereas in her statement recorded under Section 161 of Cr.P.C., she stated that she was receiving objectionable calls and messages from the phone numbers, referred supra, and that the petitioner, who is her childhood friend, was sending those messages and also obtained her xerox copy of a ration card and other documents to obtain sim card on her name and with the help of said sim card, he is sending objectionable messages. On the strength of the statement, the police registered the above crime and filed charge sheet against the accused for the offence punishable under Section 354-D IPC.

6. Section 354-D IPC is defined 'stalking'. According to Clause (1) of sub-clause (ii) of Section 354-D of IPC, any man, who monitors the use by a woman of the internet, e-mail or any other form of electronic communication, commits the offence of stalking.

7. Here in this case, the petitioner allegedly sending messages through phone numbers, referred supra, and also obtained the sim

card with the help of xerox copies of ration card and other documents obtained from the second respondent taking advantage of his acquaintance due to his childhood friendship with her. Therefore, making objectionable calls and sending objectionable messages would *prima facie* falls within sub-section (1) of clause (ii) of Section 354-D of IPC. Hence, I find no ground to quash the proceedings as the material on record is *prima facie* sufficient to constitute the said offence. This Court cannot exercise inherent jurisdiction at this stage to quash the proceedings, by applying guideline Nos.2 and 3 laid down by the Apex Court in **State of Haryana v. Bhajanlal**¹, which are extracted hereunder:

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. 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;

(c) where the uncontroverted 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;

Even otherwise, such power can be exercised by this Court only to give effect to the orders passed by the Court or to prevent an abuse of process of law or to secure the ends of justice. Consequently, the criminal petition is liable to be dismissed.

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

¹ 1992(1) SCC 335

9. Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTHY, J

14th December, 2017

sj

