

THE HON'BLE SRI JUSTICE N.BALAYOGI

CRIMINAL PETITION No.6816 of 2011

ORDER:

This petition under Section 482 of Cr.P.C. is filed by A.4 seeking to quash the proceedings in Crime No.557 of 2011 on the file of Station House Officer, Vanasthalipuram Police Station, R.R.District.

2. The contention of the petitioner-A.4 is that as per the allegations in the complaint, A.1-Smt. Satya Sai and her husband Namana Sreenivasa Naidu, who are residents of Vanasthalipuram, induced the complainant-2nd respondent herein and his wife A.Jayalakshmi saying that they will get gold at cheaper rate and took Rs.50.00 lakhs from them and absconded. The complainant has given those amounts by taking from near and dear and also stood as surety. When the complainant's wife A.Jayalakshmi demanded A.1 and A.2, their elder daughter-Subhadra (petitioner herein) and their son-in-law for return of amount or gold, they said that they have no contacts with A.1 & A.2 and if the complainant demands again, they will kill him by hiring goondas. The contention of the petitioner is that the alleged transaction took place in June, 2009 and whereas, the present complaint was lodged on 21.07.2011. There is no specific allegation against the A.4-petitioner herein in the complaint and that she is no way concerned with the crime.

3. Further except bald and *omnibus* allegations, there is no specific allegation or overt act against the petitioner. As she is the daughter of A.1 & A.2, she was roped into present crime with an intention to put pressure on A.1 & A.2. The petitioner married A.5

in the year 2007 and as it was an inter-caste marriage, she was necked out by her parents and thereafter disputes arose between the petitioner and A.5 and at present, she is living separately without any contacts with other accused.

4. It is the further contention of the petitioner that the allegation of giving an amount of Rs.50.00 lakhs to the accused is totally absurd and unbelievable and no prudent person will believe the story of the complainant. The complaint is silent regarding the date on which the complainant has given the amount to the petitioner and what was the mode of payment and whether it was handed over to the petitioner and on these grounds, the impugned proceedings are liable to be quashed as against the petitioner.

5. On the other hand, the learned Public Prosecutor contended that specific overt acts are attributed to the petitioner in the complaint and because of stay granted by this Court, the investigation could not be proceeded.

6. Heard the learned counsel for the petitioner and learned Public Prosecutor for first respondent. None appears for the second respondent. Perused the material available on record.

7. Now the point that arises for consideration in this petition is whether there is any *prima facie* material to prosecute the petitioner along with other accused or there is any abuse of process of Court in continuing the proceedings against the petitioner?

8. Learned counsel for the petitioner mainly contends that the complaint was filed on 21.7.2011 with regard to the transaction that took place in June, 2009 and because the petitioner being the daughter of A.1 & A.2, she was implicated in the crime to put

pressure on A.1 & A.2. There is no specific overt act attributed to the petitioner herein.

9. A perusal of the F.I.R. goes to suggest that the 2nd respondent herein submitted the complaint on 21.07.2011 at 16.30 hours before the Station House Officer, Vanasthalipuram Police Station. The Inspector of Police registered a case in Crime No.557 of 2011 for the offences punishable under Sections 420, 406 and 506 IPC. Along with the Criminal Petition, the petitioner also filed CrI.P.M.P.No.7037 of 2011 and obtained interim stay of all further proceedings in pursuance of F.I.R. in Crime No.557 of 2011 on 09.08.2011. Hence, the investigating agency could not proceed with the investigation.

10. There is specific allegation in the complaint that A.1-Smt. Satya Sai and her husband A.2-Namana Sreenivasa Naidu (Babji), who are residents of Vanasthalipuram, induced the complainant-2nd respondent herein and his wife A.Jayalakshmi and collected Rs.50.00 lakhs on the pretext of giving gold at a cheaper cost and later, Satya Sai-A.1 absconded. When the complainant demanded her husband Namana Sreenivasa Naidu-A.2, he used to reply that he is no way concerned with the said transaction. As per the allegations in the complaint, on 06.06.2009 A.1-Satya Sai came to the house of the complainant and informed that her husband is going to bring gold from Dubai at lower price and induced the complainant and collected Rs.10.00 lakhs on first time; Rs.10.00 lakhs at second time and Rs.10.00 lakhs on third time and whenever the complainant asked, A.1 used to say that it was deposited there and it will be given at one time and further requested to arrange for some more money from the known persons

of the complainant. Sister of A.1 Kurlapati Rukmini; elder daughter Shubhadra (petitioner herein); and son-in-law Srikanth made the complainant to believe their words and collected Rs.20.00 lakhs saying that if the complainant take higher quantity, two or three kilograms will come at lesser price. The complainant secured money from near and dear standing as surety and gave the amount. When the complainant demanded A.2 and Subhadra-A.4, elder daughter of A.1, who is the petitioner herein and her husband, for gold or return of amount, then they replied they have no way concerned with the said transaction.

11. The above facts clearly shows *prima facie* material and specific overt acts are attributed to the petitioner-A.4 that she and her husband along with Rukmini, made to believe the complainant that they will get gold for lesser price and collected Rs.20.00 lakhs, which was arranged by the complainant through the neighbours and near and dear. In view of the facts and circumstances of the case, I find that there is *prima facie* material to prosecute the petitioner for the alleged offences. No material is placed to establish any abuse of process of Court and hence, I find no ground to quash the impugned proceedings.

12. In the result, the Criminal Petition is dismissed. The interim stay granted by this Court on 09.08.2011 in CrI.M.P.No.7037 of 2011 shall stand vacated.

Consequently, Miscellaneous Petitions pending, if any, shall stand closed.

JUSTICE N.BALAYOGI

30th January 2018
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