

Criminal Petition No.8618 of 2017

ORDER:

The petitioner is the sole accused in Spl.S.C.No.67 of 2017 on the file of the Spl.Judge for Trial of offences under SC/ ST (POA) Act-cum-VII Addl. District & Sessions Judge, Ongole. The 2nd respondent is the complainant, no other than Junior Civil Judge. The petitioner is the Practicing Advocate.

2. The report of the defacto-complainant dt.14.01.2017 in registration of Cr.No.5 of 2017 for the offences punishable under Sections 354-D(2), 506, 509 IPC and u/sec.3(2) (va) of the Scheduled Caste and Scheduled Tribe(Prevention of Atrocities)Act, 1989 (for short, 'the Act') by the II Town Police Station, Ongole on 14.12.2017 shows that by then she was working as I Addl. Junior Judge, in Ongole and earlier till 13.10.2016 she worked as II Addl. Junior Civil Judge-cum-Principal Magistrate of Juvenile justice Board. She is resident of 3rd lane of Ramnagar, Ongole town. The petitioner M.Sivaramakrishna, non-practising advocate used to come to her Court very often and without even any work used to sit staring at her. She did not take the issue seriously as it is the Public Court she was holding. While so, the accused used to follow her unnecessarily wherever she goes and even she thought that he was proceeding in pursuance of his normal course. While so, on the eve of 1st January, one day she received one courier cover with her office address which she opened before her Superintendent who brought the cover and Clerk, it is found consisting of one letter and booklet and on verification, the letter titled 'Mallepuvvu' with self-praising composition comparing himself as Mallepuvvu, touching her attitude and dressing and also containing some threatening words as 'Ee puvvuku Atmahatye sharanyama' and enclosed said letter supra as part of the report and stated she being in public domain did not take it serious.

Despite it on 13.01.2017 she received a phone call to her official land line No.08592-231256 from No.8019592131 and the moment she lifted phone receiver said person introduced himself as a Ramakrishna Advocate and straightaway questioned her as to why she is rejecting his love despite his best efforts. She patiently replied that she does not know him as to why he was creating troubles to her but he again and again repeating conversing with her with the same queries. Then she put up the phone and even then he again called her to the landline number of her residence and threatened with dire consequences saying he would commit suicide or attack her with acid if she does not accept his love. She then out of fear disconnected the phone. Even though said advocate(accused) did not leave his efforts and again called to her number and stated that he is in deep love with her and has much concern towards her as she belongs to destitute community of Scheduled Caste and he intends to extend her social status in the society. Then she disconnected phone as unable to handle the situation. After consulting her superior officials she chosen to lodge the report as there was every apprehension of danger to her life.

3. On perusal of the record, the statement of the defacto-complainant is in tune with the above facts, with little more details recorded during investigation and the police having examined her and the Court Attender and Court Superintendent as L.Ws.2 and 3 and Clerk of the Court as L.W.4 and CEO of the District Court as L.W.5 and Tahasildar, Ongole as L.W.6 to speak on the caste from the Caste Certificate of the accused and the others supra as to the substantial statement and report of the defacto-complainant. It is therefrom from the police final report the learned Sessions Judge taken cognizance for the offences in allotting the Sessions Case number.

4. The 2nd respondent was served and did not choose to appear. Heard the learned counsel for the petitioner and the learned Public Prosecutor representing the State.

5. The contentions in the quash petition are that from perusal of the entire complaint with the statements of the witnesses including the defacto-complainant during investigation, there is no averment in respect of naming the caste of the defacto-complainant to attract Section 3(ii)(va) of the Act and so far as the other allegations concerned, those are no way constitute any offence and even the complaint averments taken with reference to the said letter as a whole no way constitutes the offence including from the say of any phone call received directly from the petitioner questioning of her rejecting his love but for if at all the offence under Section 509IPC which is non-cognizable one and thereby the proceedings are liable to be quashed.

6. Even taken from the contentions as rightly pointed out by the learned Public Prosecutor of once police registered the case for the cognizable and non-cognizable offences, a non-cognizable offence also constitutes a cognizable offence from the very wording of Section 155CrPC and from the settled expressions of the Apex Court. Making phone calls and harassing attracts Section 354-D IPC and there are even threats in creating panic of he was going to commit suicide unless she accepts alleged love which is nothing but intimidation and blackmailing.

7. Once such is the case and from the report and investigation shows because being the advocate though not regularly practising but coming to Court and sitting in the Open Court and observing her peculiarly by staring towards her and not only that but also following her and not only that but also many a time called her over phone even she was disconnecting and not answering and not only that addressed a love letter and sent book with

exaggerated poetic composition. It is hardly difficult to quash the proceedings but for if at all to file discharge application for the learned Special Judge to consider on own merits and decide if charges not famed, else to face trial.

8. Accordingly with these observations, the Criminal Petition is rather than dismissal disposed of. Pending miscellaneous petitions, if any, shall stand closed.

Dr. JUSTICE B. SIVA SANKARA RAO

Date:23.11.2018
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