

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.2710 OF 2018

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C by the petitioner/ accused, seeking to quash the proceedings in C.C.No.3860 of 2017 on the file of the XI Additional Chief Metropolitan Magistrate, Secunderabad, where taken cognizance for the offence punishable under Section 506 IPC.

Heard learned counsel for the petitioner and learned Public Prosecutor appearing for the State. Though notice served on the 2nd respondent/ de facto complainant, she failed to attend and hence taken as heard and perused the material on record.

The sum and substance of the accusation from the report of the de facto complainant in registration of Crime No.301 of 2017 dated 19.09.2017 from which police after investigation filed final report that was taken cognizance by the learned Magistrate in nutshell with reference to LWs.1 to 9 of the charge sheet, is that on 19.09.2017 accused hatched a plan to threat and create horror the ground floor owners LW.2-A.K.Sushma W/ o A.K.Ramu, to vacate the building, she threw black nuvvulu (black sesame seeds) around the ground floor. It is mentioned according to the mythology creeds and customs, black nuvvulu are the symbol for un-luck and un-health and because of this the families of LWs.3 and 4,

said A.K.Ramu, husband of A.K.Sushma (LW.2) and A.K.Santosh, brother of Ramu, undergone psychological pain.

The said offence of Section 506 IPC is a non-cognizable one. No doubt, a perusal of the record shows that the police followed the procedure contemplated under Section 155(2) Cr.P.C. by obtaining permission of the Magistrate to investigate the non-cognizable offence. However, from perusal of the very definition of Section 503 IPC to attract the offence under Section 506 IPC what is prerequisite is there must be threat with any injury to the person, reputation or property of the persons or another person to whom is interested and that threat must be with intent to cause alarm to the person, or to cause that person to do any act, not legally bound to do, or to omit to do any act, which is legally entitled to do to avoid execution of such threat.

Here, it is not the case of there is any threat from the so called petitioner/accused by name, Sharada Awasti or throwing of black sesame seeds on the alleged ground floor, if at all seen a threat and even it creates any alarm on the customary belief, it is an unlucky, by itself will not attract the offence under Section 506 IPC, suffice to say, the cognizance order of the learned Magistrate right from the investigation in registration of crime even with permission of the Magistrate for non-cognizance, no way survives to continue.

Having regard to the above, the Criminal Petition is allowed by quashing the proceedings against the petitioner/ accused in C.C.No.3860 of 2017 on the file of the XI Additional Chief Metropolitan Magistrate, Secunderabad.

Miscellaneous petitions pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 28.11.2018
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