

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.2948 of 2018

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. by the petitioner/accused seeking to quash proceedings against him in Crime No.72 of 2018 which was registered by the police of Gajuwaka Police Station, Visakhapatnam against the accused for the offences punishable under Sections 417, 420, 376, 408, 497, 500, 506 read with 34 I.P.C. and Section 66-E, 67 I.T.A. 2000-2008.

The allegations, briefly, against the petitioner are that the petitioner on the guise of assisting complainant's family in giving police report in respect of loss of gold chain in a theft and also in procuring a job to the son of the defacto complainant used to move closely with the family of the defacto complainant. Then, on the pretext of securing a job to the son of the defacto complainant, he took the defacto complainant and her son to Hyderabad on 4-1-2016 and when the son of the defacto complainant went out for shopping, he gave a drink to the defacto complainant whereby she became stupefied and in that stage, he had committed sexual assault on her and shot his sexual acts with his cell phone and when she regained senses, he threatened her that if she report to the police, he would publicize cell phone pictures. It is also alleged that in order to secure the job, he collected amounts from them. There are other such sadistic activities of the accused are mentioned in the complaint. The investigation is reported to be pending.

Learned counsel for the petitioner seeks quashment of the proceedings mainly on the submission that in a case of this nature, as per the proviso Section 154 Cr.P.C. information has to be recorded by the woman Police Officer or any woman Officer. In this case, the information was recorded by a male Police Officer i.e., Inspector of Police, Gajuwaka Police Station and therefore, the investigation is vitiated by the violation of aforesaid proviso.

Per contra, learned Additional Public Prosecutor while opposing the petition would submit that there is a prima facie allegation against the accused for the offences narrated in F.I.R. and therefore, quash petition is not maintainable. He would further submit that as per proviso to Section 154 Cr.P.C. if a victim, who is a woman, gives oral statement to Station House Officer for the offences under Sections 326 A, 326 B, 354, 354 A, 354 B, 354 C, 354 D, 376, 376 A, 376 B, 376 C, 376 D, 376 E, or 509 of I.P.C. certainly such an oral information has to be recorded by any woman Police Officer or woman Officer and there is no dispute with regard to the said proviso. However, in the instant case, F.I.R. was registered not on the basis of oral statement given by the defacto complainant but she presented a written report to the police basing on which Cr.No.72 of 2018 was registered and therefore, there is no deviation from the proviso to Section 154 Cr.P.C. He thus prayed for dismissal of the petition.

This Court finds force in the submission of the learned Additional Public Prosecutor.

A complete reading of proviso to Section 154 Cr.P.C. would show that requirement of recording of the complaint in respect of the offences mentioned in the said proviso specifically by a woman Police Officer or any woman Officer would arise if a woman victim gives an oral report or an oral statement. However, in the instant case, defacto complainant presented a written report to the police, basing on which, police have registered a case in Cr.No.72 of 2018 and commenced investigation. This court finds no illegality or deviation from the proviso to Section 154 Cr.P.C.

Learned counsel for the petitioner has not produced any citation showing that even in the case of presentation of a written report by a woman alleging commission of the offences mentioned in the proviso to Section 154 Cr.P.C., necessarily police shall refuse to receive the same and record her oral statement through a woman Police Officer or any woman Officer. As stated supra, a plain reading of proviso to Section 154 of Cr.P.C. does not appear to be so harsh against a woman victim who comes up with a written report.

Then, coming to the facts, a plain reading of F.I.R. disclose prima facie material in F.I.R. which are grave in nature against the accused/petitioner requiring thorough investigation. At this stage, it can only be stated that there is a strong prima facie accusation against the accused and therefore, this petition cannot be entertained.

Accordingly, this Criminal Petition is dismissed.

As a sequel, miscellaneous applications pending if any, shall stand closed.

JUSTICE U.DURGA PRASAD RAO

Dated 9th March, 2018.

Dvs



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