

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.17351 of 2016

ORDER :

The petitioners are A.1 and A.2 in C.C.No.613 of 2016 on the file of the Chief Metropolitan Magistrate at Nampally, Hyderabad, outcome of Cr.No.397 of 2016 of Police Station, Chandrayanagutta Police Station, registered for offence punishable u/sec.506 IPC on the report of the 2nd respondent-defacto-complainant and the police, after investigation, filed chargesheet therefrom the learned Magistrate taken cognizance for the offence supra. Now the said cognizance is the impugment herein.

2. Heard the learned counsel for the petitioners/ A.1 and A.2 who reiterated the same during the course of arguments and the learned Public Prosecutor for the 1st respondent-State and the 2nd respondent, even served failed to attend, are taken as heard and perused the material on record.

3. The sum and the substance of the accusation from the report of the defacto-complainant in registration of the crime vis-à-vis the statement of him during investigation as L.W.1 is that he is an agriculturist and is one of the 5 children of his parents. His brother was killed on 19.09.2016 at Phahadi Shareef by Hassan and his relatives and later on 20.09.2016 Hasan and his relatives including Saleh Bin Thriff-A.1 and Abdulllah Bin Thriff-A.2 sent messages to his Facebook threatening to kill him and earlier also they sent similar messages, and there is a life threat to him, hence to take action.

4. The statement of the L.W.2, among the 4 witnesses including the Head Constable who registered the Crime as L.W.3 and the Sub Inspector of Police who investigated and filed chargesheet as L.W.4, shows that he is brother of the defacto-complainant and the deceased Amar Hamshan and his brother Amar Hamshan was killed on 19.09.2016 at Pahadi Shareef near Jalpalli gate by Hassan and his relatives by using rods while so on

20.09.2016 the relatives of Hassan i.e. the petitioners-accused persons are sending messages on the Face book to do away the life of them and earlier also sent similar messages due to which all of their family members are in danger.

5. What the police from the above filed the chargesheet did not improve anything in their case and they did not even secure the so called messages sent on Facebook either from the sending end or receiving end or retrieved otherwise, which is crucial. In the absence of which, there is no basis in registration of the crime and filing of the chargesheet, leave about the fact that one of the contentions of the accused is the offence is non-cognizable and there is no permission of the learned Magistrate before registration of the crime.

6. Having regard to the above, the proceedings against the accused person in the above crime proceedings are liable to be quashed.

7. In the result, the Criminal Petition is allowed by quashing the proceedings against the petitioners/ A.1 and A.2 in C.C.No.613 of 2016 on the file of the Chief Metropolitan Magistrate at Nampally, Hyderabad, outcome of Cr.No.397 of 2016 of Police Station, Chandrayanagutta Police Station and they are acquitted. The bail bonds of the petitioners/ A.1 and A.2 shall stand cancelled.

Miscellaneous petitions pending if any, shall stand closed.

Date:31.12.2018
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Dr. B.SIVA SANKARA RAO J,