

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.8359 OF 2015

ORDER:

This criminal petition is filed under Section 482 of the Code of Criminal procedure, 1973 (for short 'Cr.P.C') to quash the proceedings in C.C. No.293 of 2014 on the file of IV Metropolitan Magistrate, Bheemunipatnam, Visakhapatnam District, on various grounds.

The third respondent herein lodged a complaint with the police alleging that on 06.07.2013 at about 4.00 p.m., A.1 and A.2, who are her brother's father-in-law and mother-in-law and their daughter Kranthi and other fifteen members visited her house and abused her in filthy language as 'lanja' in the presence of her in-laws and the said persons video-graphed her house, also abused her sister, brother-in-law and her parents. When she questioned the highhanded behaviour, they beat her and tried to kill her. On receipt of the complaint, the police registered the crime under Sections 509, 506 read with 34 of I.P.C.

Thereafter, the police took up investigation and recorded the statements of witnesses under Section 161 (3) Cr.P.C. On the basis of material collected during investigation, the Inspector of Police, P.M. Palem Police Station, concluded that there is a material to proceed against Injeti Rama Padha Sagar Kumar and Injeti Vijaya Kumari, who are in-laws of the brother of *de- facto* complainant for the offence referred supra and filed charge sheet and it was numbered as C.C.No.293 of 2014.

Thereafter, the *de facto* complainant filed protest petition under Section 200 Cr.P.C. repeating the same allegations made in

the complaint. Even according to the allegations made in the protest petition, one Y.Dharmangada Rao and D.Dharma Raju along with Injeti Kranthi and Seshamrao, Niranjana and others accused committed the offence punishable under Sections 323, 147, 448, 500, 506, & 509 read with 34 of I.P.C.

During enquiry in the protest petition, the Magistrate recorded sworn statements of three witnesses including the *de-facto* complainant, who is the third respondent herein, and the entire statement of the third respondent is silent about the role played by the petitioner herein G.Dharma Raju except referring Vijaya Kumari, Kranthi, and one Niranjana and Dharmangada Rao and his wife came to her house and abused her in filthy language and video-graphed the inmates of the house, but the name of the petitioner is G.Dharma Raju, but not D.Dharma Raju as alleged in the complaint. Similarly the other witness also did not speak about actual participation of the petitioner. Therefore, the participants are only Y.Dharmangada Rao and D.Dharma Raju and other accused persons, but not the petitioner G.Dharma Raju. In the absence of any allegation against the petitioner, the proceedings in C.C.No.293 of 2014 on the file of IV Metropolitan Magistrate at Bheemunipatnam cannot be continued against him and requested this Court to quash the proceedings.

This Court can exercise power under Section 482 Cr.P.C. only in exceptional circumstances, more particularly when there is an allegation in the complaint *prima facie* constitutes an offence referred above. But in the present case on hand, the allegations made in the protest petition and the statements recorded during

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enquiry in protest petition are silent about actual participation of the petitioner G.Dharma Raju.

In the absence of any allegation against the petitioner G.Dharma Raju the proceedings in C.C.No.293 of 2014 on the file of IV Metropolitan Magistrate, Bheemunipatnam, cannot be continued.

Accordingly, the criminal petition is allowed at the stage of admission.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTHY, J

Date:19.06.2018
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