

THE HON'BLE SRI JUSTICE N.BALAYOGI

Criminal Petition No.5783 of 2011

ORDER :

This Criminal Petition under Section 482 of Cr.P.C. is filed by petitioner/Accused No.2 seeking to quash the proceedings in C.C. No.816 of 2010 on the file of the IX Metropolitan Magistrate, Cyberabad at Miyapur, Kukatpally, for the offence punishable under Sections 493, 420 and 506 I.P.C.

2. The contention of petitioner/Accused No.2 is that the de facto-complainant has given complaint as an arm-twisting device to exert pressure on the petitioner and his family members and no incident has taken place against the 2nd respondent – de facto-complainant. The petitioner/Accused No.2 is falsely implicated for the alleged offence. The prosecution of the petitioner is an abuse of process of law, since offence under Sections 493 and 420 do not attract against the petitioner and alleged offence under Section 506 has occurred outside the territorial jurisdiction of the 1st respondent. The F.I.R. also does not disclose any offence committed by the petitioner. No specific overt act has alleged against the petitioner. It is further contended that there is no material to connect the petitioner with the case and the 2nd respondent, abusing the process of the court, got filed the present complaint.

3. Now the point that arises for determination is :

“Whether there is prima facie material to prosecute the petitioner/accused No.2.”

4. The learned counsel for the petitioner contended that the petitioner has no knowledge about the affair between A1 and the complainant and no specific overt act is attributed to the petitioner/A2.

5. *Per contra* the learned Public Prosecutor contended that there is specific overt act attributed to the petitioner in the complaint as well as in the charge-sheet and there is sufficient material to prosecute the petitioner.

6. A perusal of the record goes to suggest that Md.Ashia presented a complaint on 21.4.2010 to the Inspector of Police, Miyapur Police Station, in turn, it was registered as case in crime No.180 of 2010 for the offence under Sections 493, 420 and 506 I.P.C. In the complaint the specific allegation is that she and Krishna Sumanth, son of P.Govinda Rao, driver, fell in love since some years. Sumanth making her believe that he would marry her early, took her to Peddamma gudi at Jubilee Hills from her hostel and *haarams* were exchanged in the temple by putting *kumkuma bottu* on her forehead and he told her that from that day onwards she is his wife and he further told her that if anyone asks her, tell them like that only. Thereafter, Sumanth put the complainant in the house at Miyapur bearing house No.2-2-107/TN/31 and made believe the owner of the house that they

are wife and husband. Sumanth told that the marriage would be done in the presence of elders and till then they are wife and husband in the eyes of all. Believing him, she also told to all that marriage between them is over. After coming to an agreement that they would marry, he convinced her for physical relationship. From that onwards for about one year, Sumanth enjoyed her physically and made her to use medicines for not getting pregnancy till elders accept their marriage. After passing of some months, Sumanth, saying that he has some urgent work, went to his village promising to return within one week. Even after one week, Sumanth has not returned and he switched off his both phones. The complainant, having no alternative, went to Machilipatnam and informed their love affair to the family members of Sumanth.

7. The specific allegation against the petitioner/A2 is that on seeing the complainant, petitioner/A2, who is the father of Sumanth and P.Kanaka Durga, mother of Sumanth, hid Sumanth in the house. When the complainant questioned, both parents seriously opposed the marriage. The parents of Sumanth further stated that *“our caste is different, your caste is different and by marrying you, how our son would be developed. By taking dowry, we perform marriage of our son with the girl of our caste. Forget what happened. In future, if you make a call to Sumanth or enter into the house, your entire family will be killed.”* Sumanth’s father P.Govinda Rao and Sumanth by saying to inform whoever she wants, beat her. She, unable to do anything,

returned back. Thereafter, Sumanth made phone calls to her saying that he would marry another girl and do not come into his way and if she comes in his way, he would kill her and asked her to live her life on her own.

8. In the charge-sheet there is also specific overt act attributed to the petitioner that Sumanth enjoyed her sexually for a period of one year and made her consume contraceptive pills to avoid pregnancy. After some months, Sumanth left the place for his village stating that he has some urgent work and did not turn up. He switched off his cell phones. So, the complainant went to the native place of Sumanth and informed the matter to his father Govinda Rao/petitioner herein and mother P.Kanaka Durga. Later, the petitioner threatened the de facto-complainant with dire consequences.

9. In the last para of the charge-sheet also it is alleged that accused No.2, who is the father of accused No.1, has threatened the victim woman with dire consequences. There is specific overt act attributed to the petitioner that he threatened the complainant with dire consequences and the charge-sheet also filed against the petitioner along with accused No.1. The offence attributed to the petitioner is only under Section 506 I.P.C. in the charge-sheet. Therefore, I am of the considered view that the specific overt act is attributed to the petitioner/A2.

10. With regard to delay in trial, the petitioners filed Crl.P.M.P. No.5864 of 2011 in the Criminal petition and obtained

interim stay of all further proceedings in pursuant to the C.C. No.816 of 2010 on 15.7.2011. Besides that, the reason for delay is pending of so many cases on the file of the Court. However, it does not give any cause of action for the petitioner to file a revision application.

11. In the facts and circumstances discussed above, I am of the considered view that there is *prima facie* material against the petitioner and there is nothing to suggest that the de facto-complainant abused the process of law or any prejudice is caused to the petitioner. The trial court has already taken the case on file and numbered it as C.C. No.816 of 2010.

12. Any observation made herein above shall not be taken as an expression of opinion on the merits of the case and the trial Court shall decide the matter uninfluenced by any observation made herein above.

13. In the result, the Criminal Petition is dismissed while vacating the interim stay granted by this Court in CrI.P.M.P. No.5864 of 2011, dated 15.7.2011.

14. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE N.BALAYOGI

31st January, 2018

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