

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.5463 of 2017

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioners-A.2 to A.5 seeking to quash the proceedings against them in Sessions Case No.436 of 2015 on the file of the Assistant Sessions Judge, Gudivada, Krishna District, in connection with Crime No.55 of 2014 of Gudivada II Town Police Station, registered for the offences under Section 417, 376, 506 I.P.C. r/w Section 34 I.P.C.

2. Heard the learned counsel for the petitioners-A.2 to A.5, learned Assistant Public Prosecutor representing the 1st respondent-State, learned counsel for the 2nd respondent-*de facto* complainant and perused the record.

3. The learned counsel for the petitioners-A.2 to A.5 would submit that the petitioners-A.2 to A.5 have nothing to do with the allegations made in the first information report as well as in the charge sheet; they have not demanded any money and threatened the *de facto* complainant; the allegations levelled against A.1 have nothing to do with these petitioners-A.2 to A.5, who are parents and unmarried sisters of A.1; some omnibus allegations are made in the F.I.R.; and ultimately, prayed to allow the application.

4. Learned Assistant Public Prosecutor opposed the grant of relief sought by the petitioners-A.2 to A.5.

5. Learned counsel for respondent No.2-*de facto* complainant would submit that there are grave allegations against the petitioners-A.2 to A.5 constituting the offences under Sections 417, 376 and 506 I.P.C. r/w

Section 34 I.P.C.; there are no circumstances to allow this application; and ultimately, prayed to dismiss the application.

6. In view of the contentions putforth by both sides, the point for determination is, whether the proceedings in Sessions Case No.436 of 2015 on the file of the Assistant Sessions Judge, Gudivada, Krishna District, against the petitioners-A.2 to A.5 can be quashed?

7. As per the prosecution case, A.1 developed sexual relationship with the *de facto* complainant, who is working as Nurse in Praja Vydyasala at Gudivada, when he went there to take treatment. It is also alleged that A.1 promised to marry the *de facto* complainant. As per the first information report lodged in this case, when the *de facto* complainant went to the house of the petitioners-A.2 to A.5 in the absence of A.1, the petitioners-A.2 and A.3 alleged to have demanded an amount of Rs.5,00,000/-. It is alleged that the petitioners-A.2 to A.5 threatened the *de facto* complainant and directed her to go out of their house. The alleged incident said to have taken place on 21.02.2014 within the four corners of the house. There is no specific allegation of the petitioners-A.4 and A.5 demanding additional dowry for the marriage between the *de facto* complainant and A.1. The specific allegation is that the petitioners-A.4 and A.5 have directed the *de facto* complainant to go out of the house, otherwise they would do away with her life. Admittedly, there was sexual relationship between the *de facto* complainant and A.1 from long time, she became pregnant and the pregnancy was terminated twice at the instance of A.1. In the course of submissions, it is brought to the notice of the Court that the *de facto* complainant gave birth to a baby girl through A.1. There are specific and grave allegations against the petitioners-A.2 and A.3, i.e., parents of A.1, so also against A.1. In the circumstances narrated, the false implication of the petitioners-A.4 and A.5, who are

sisters of A.1, is not ruled out. Moreover the petitioners-A.4 and A.5 are unmarried sisters of A.1. The relationship between the *de facto* complainant and A.1 is strained. There is every possibility of implicating these petitioners-A.4 and A.5 in this case in order to coerce the petitioners-A.2 and A.3. The innocence of the petitioners-A.4 and A.5 cannot be ruled out. It can be culled out from the record that in order to take vengeance against A.1, the petitioners-A.4 and A.5 are implicated in this case. The continuation of the prosecution without justification definitely would damage their future and blacken their future prospects. In view of the circumstances, it is appropriate to quash the proceedings in Sessions Case No.436 of 2015 against the petitioners-A.4 and A.5 and the request of the petitioners-A.2 and A.3 is rejected.

8. The Criminal Petition is allowed in part and the proceedings against the petitioners-A.4 and A.5 in Sessions Case No.436 of 2015 on the file of the Assistant Sessions Judge, Gudivada, Krishna District, are quashed. The Criminal Petition is dismissed insofar as the petitioners-A.2 and A.3 is concerned. Pending Miscellaneous Petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

8th February, 2018

Note: Issue cc in ten (10) days
B/O
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