

SMT JUSTICE T. RAJANI

CRIMINAL PETITION Nos.10814 and 11063 of 2013

COMMON ORDER:

CRLP.No.10814 of 2013:

The criminal petition is filed for quash of the proceedings against the petitioner, who is A1, in Cr.No.132 of 2013 on the file of the Station House Officer, Markapur Town Police Station, Prakasam District. The offences alleged are under Sections 355, 406, 500, 501, 505, 509 read with 34 of the Indian Penal Code.

2. Heard the counsel for the petitioner and the learned Public Prosecutor, appearing for the second respondent. None appeared for the first respondent. Notice could not be served and on the representation of the petitioner that the respondent No.1 is not residing in the address given in the complaint, substitute service by way of publication in a news paper was permitted.

3. Learned Public Prosecutor placed before the Court a letter dated 12.11.2018 addressed to him by the Sub Inspector of Police, Markapur (T) Police Station, Prakasam District, which supports the contention of the petitioner that on a complaint with same set of facts, another crime was registered against him in Cr.No.77 of 2012 for the offences under Sections 498-A, 506, 307 read with 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act and that the same is pending trial.

4. The letter shows that on the basis of the subsequent complaint, filed by the complainant, the present case is registered in Cr.No.132 of 2014 for the offences under Sections 355, 406, 500, 501, 505, 509

read with 34 IPC. It is also mentioned that the police are proposing to file a final report, after serving notice on the complainant, who is residing at UK, stating that it is a mistake of fact.

5. The petitioner also filed copies of the two complaints and the earlier complaint shows that all the facts mentioned in the present complaint are mentioned in the earlier complaint and apart from the facts mentioned in the present complaint, there are several other allegations against the petitioner. From the above, it can be understood that the present complaint cannot be sustained, as it is based on the same set of facts. Hence, in view of the above, this Court opines that continuation of further proceedings against the petitioner would only be abuse of process of law.

CRLP.No.11063 of 2013:

6. The criminal petition is filed for quash of the proceedings against the petitioner, who is A1, in PRC.No.19 of 2013 on the file of the Additional Judicial First Class Magistrate, Markapur. The offences alleged are under Sections 498-A, 506, 307 read with Section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.

7. The counsel for the petitioner submits that the learned Magistrate did not follow the procedure prescribed under Section 202 of the Criminal Procedure Code and referred the matter for investigation, thereby, violated the procedure under Section 190 Cr.P.C.

8. But Section 190 Cr.P.C. prescribes that the Magistrate receiving the complaint can take cognizance of the case. Section 200 Cr.P.C. prescribes the procedure that should be adopted by the Magistrate while taking cognizance of the case, which is, examining the complainant on oath and witnesses present, if any. Section 202 Cr.P.C. permits postponing of issue of process by the Magistrate, who receives the complaint, of which he is authorized to take cognizance or which has been made over to him under Section 192 Cr.P.C and while postponing the issue of process the Magistrate can direct investigation to be made by the police officer. The docket proceedings would show that the Magistrate, on receiving the complaint, forwarded the complaint to the Station House Officer, Markapur for further investigation, which is absolutely in accordance with the procedure prescribed by Section 202 Cr.P.C.

9. The other contention of the petitioner is that the Court or/and the Police Station at Markapur does not have jurisdiction to register and try the case, as the alleged offences did not take place in Markapur. But a perusal of the complaint would show that some of the allegations made against the petitioner pertain to Markapur. Section 498-A IPC is a continuous offence and hence, when part of the cause of action arises in Markapur, the police station and the Court would assume jurisdiction to register and try the case. On merits, this court finds that several allegations are made, the truth of which can be decided only after trial. Hence, in view of the above, this Court opines that it is not a fit case to quash the proceedings.

In the result, CRLP.No.10814 of 2013 is allowed and the proceedings against the petitioner, who is A1, in Cr.No.132 of 2013 on the file of the Station House Officer, Markapur Town Police Station, Prakasam District, are hereby quashed and CRLP.No.11063 of 2013 is dismissed. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

November 14, 2018
DSK

T. RAJANI, J

