

SMT JUSTICE T.RAJANI

CRIMINAL PETITION No.10438 OF 2011

ORDER:

1. This Criminal Petition, under Section 482 of Cr.P.C., is filed by the Petitioner/Accused seeking to quash the proceedings in C.C. No.512 of 2011, pending on the file of the Court of VIII Additional Chief Metropolitan Magistrate at Hyderabad (for short, 'the trial Court'), registered for the offences punishable under Sections 500 and 501 of I.P.C.

2. Heard learned counsel for the petitioner and learned Public Prosecutor, appearing for the 1st respondent – State. There is no representation on behalf of the learned counsel appearing for the 2nd respondent – *de-facto* complainant.

3. The grievance of the complainant is that the petitioner, who filed O.S. No.711 of 2010 on the file of II Additional Chief Judge, City Civil Court, Hyderabad (for short, 'the lower Court') against him, described and termed him at Para No.2 in Page No.2 of the plaint therein as an '*Ex-convict*' and also made derogatory remark that he was known for his nefarious activities in that area.

4. Learned counsel for the petitioner submits that, in fact, an amendment petition *i.e.*, I.A. No.1 of 2018 was filed in O.S. No.711 of 2010 before the XI Additional Chief Judge, City Civil Court at Hyderabad, seeking amendment of the plaint by inserting words '*learnt to be*' between the words '*who is*' and '*ex-convict*' occurring in Page No.2 at Para No.2 of the plaint.

5. Apart from the above learned counsel for the petitioner also relies on a judgment of this Court in ***G.Janardhana Reddy Vs. A.Narayana***

Reddy and another¹: wherein at Para No.4 of the judgment, it was held as under:

“4. After the 1st respondent lost his civil suit, he filed CC No.3 of 2006 in the lower Court on 10.03.2005. It is evident that the criminal case is filed by the 2nd respondent with a *mala fide* intention and with a view to harass the petitioner and to coerce him for terms in the pending appeal and also with oblique motive. Without the petitioner contending in the suit that revenue records filed by the 1st respondent as false, fabricated and forged, there is absolutely no other case which can be put forward by the petitioner in the civil suit in order to attack claim of the 1st respondent therein. *Prima facie*, such allegations in the pleadings in civil suits are not *per se* defamatory, unless the petitioner had any previous score with the 1st respondent. Except this civil litigation, which the 1st respondent himself started, the petitioner has no other dispute with the 1st respondent. Except this civil litigation, which the 1st respondent himself started, the petitioner has no other dispute with the 1st respondent. Therefore, it cannot be said that the petitioner had any intention to defame the 1st respondent or that the petitioner maliciously made those allegations in his pleadings. Secondly, those allegations in the petitioner's pleadings and affidavit in the suit cannot be termed as defamatory. Thirdly, it is not a case where the alleged defamatory statements were published by way of any public notice or public statement or in any public meeting. They were made in Court proceedings in writing and no outsider had any occasion to read the same.”

6. Hence, going by the above standards, it has to be understood that in this Case also the petitioner did not have the intention to defame the complainant and, in fact, the amendment sought for in I.A. No.1 of 2018 in O.S. No.711 of 2010 would show that only on information, he has mentioned the said fact in the plaint. But, he did not have any intention to defame the complainant.

¹ 2010 (1) ALD (Crl.) 198 (AP)

7. Hence, in view of the above, this Court opines that continuation of further proceedings against the petitioner would only be an abuse of process of law.

8. Accordingly, the Criminal Petition is allowed and all further proceedings against the Petitioner/Accused, in C.C. No.512 of 2011, pending on the file of the Court of VIII Additional Chief Metropolitan Magistrate at Hyderabad, are hereby quashed.

9. As a sequel, miscellaneous petitions, if any, pending in this Petition shall stand closed.

Date: 30.10.2018.
Dsh

T. RAJANI, J



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Date. 30.10.2018

DSH