

THE HONOURABLE Dr.JUSTICE B. SIVA SANKARA RAO

Criminal Petition No.8041 of 2018

ORDER :

The petitioners are accused 2 to 6 in PRC.No.12 of 2018 on the file of Judicial First Class Magistrate, Punganur, Chittoor District, from the police final report allotted the committal case number by the learned Committal Magistrate having taken cognizance for the offences of which the accused 1 to 6 were charged for Sections 420, 323, 313, 506 & 509 r/w 34 IPC. A.1 shown in abscondence and charge sheet filed against petitioners/ A.2 to A.6 only. It is outcome of the report of the 2nd respondent in crime No.60 of 2016 of Chowdepalle Police Station for said offences along with Sections 417 other than Section 313 IPC and after investigation from the FIR dated 16.10.2016 by citing 20 witnesses including LWs.19 & 20 the investigating officers who registered the crime, investigated and filed final report and LWs.17 & 18 medical officers, LW.1-victim, defacto complainant, relatives and other witnesses among LWs.2 to 16. In the charge sheet among 6 accused including the petitioners/ A.2 to A.6, A.2 is father of A.1-B.Sunil Kumar Reddy, Sub Inspector of Police, A.3 mother of A.1 supra, A.4 & A.5 are sister and brother of A.1, A.6 is husband of A.5.

2. The charge sheet speaks from the investigation that A.1-Sunil Kumar Reddy while working as SI of Police in Chittoor District now under suspension related to A.2 to A.6 supra committed the offences supra with averments that on 16.10.2016 defacto complainant M.Aruna along with her mother Jayalakshamma, LWs.1 & 2 went to SDPO, Palamaner with regard to land dispute between family of defacto complainant and one Suresh Babu. A.1 Sub Inspector enquired the defacto complainant about her problem and after knowing the land dispute, he assured that he will help her in the land dispute and taken her cell number and 2 days later called her over phone to meet him personally at Madanapalle. Defacto complainant believed his words went to

Madanapalle along with her friend B.Chowdamma-LW.3 and met A.1 at APSRTC bus stand, Madanapalle, then A.1 took them to Bapuji Park at CTM Road, Madanapalle near bus stand. He asked LW.2 to go to bus stand saying he has to discuss with LW.1 about the land dispute personally from which they could not gauge his dishonest intention. He having gained confidence and trust induced the LW.1 with his honey coated words of he fell in love with her and made her to believe that he will help her in the land dispute and marry her and she fell pray to him and he participated in sexual intercourse with her many a time with that pretence from which she got pregnancy and he forced her to take tablets for abortion, despite her plea not to kill the baby in the womb and he administered her the tablets from which she got aborted and for her request to marry he bet her head to wall and kicked her on stomach and also caused injuries and threatened in administering the tablets otherwise to do away in cause aborted therefrom. She informed the same to A.2 and A.3 parents of A.1 over phone. A.1 also called A.2 to A.6 to Madanapalle. They also threatened her. Even to the request of LW.1 not to have sexual intercourse until the marriage he proposed, A.1 threatened her and participated in sexual intercourse against her consent by visiting her house in the absence of her parents. He also lured her by saying a new house was constructing in his native village T.Obaipalle and Rs.25,00,000/- is needed for its completion so as to provide the house for their stay immediately after marriage and he is going to marry and thereby lured to part with an amount of Rs.20,00,000/- by cause pledging her jewellery and taken loans from her relatives and friends and in cause transferring the amount to the Bank accounts of LWs.7 to 9 as per A.1 suggestion and LWs.10 to 16 deposited the amounts to the bank accounts of LWs.7 to 9 at the instance of A.1 and also given amounts directly to A.1. LW.1 complainant parted with her jewellery viz., gold chain, bracelet, ring all of about 50 grams on 14th February to A.1 besides later gold watch and furniture out of her love towards him. A.1 later was operated to his legs and was under

bed rest. About 18 months before the charge sheet, A.1 again came with A.2 to A.6 to Madanapalle and called the LW.1-complainant to come there and when she came there they all assured her of A.1 was going to marry her and lured Rs.1,00,000/- from LW.1 there. Later A.1 deceitfully failed to marry her saying his marriage fixed with his caste girl for dowry of Rs.70 lakhs and ask the complainant to stay at his keep, even by unheeding to her requests not to spoil her life and by threats to her life and other accused also including by visiting her house on 15.10.2016 abused and threatened her with dire consequences. During investigation after medical certificate received from the medical examination of the victim, Sections 313 & 376(2)(a)(ii) IPC are added by memo. The investigation from examination of LWs.1 to 20 disclosed the commission of the offences by accused. Pre charge sheet filed in January 2018 against them showing A.1 in abscondence for anticipatory bail order in his favour was also cancelled later by High Court and on his arrest his potency test to be conducted and he involved against LW.1 in another case CC.No.298/ 2017 (crime No.23/ 2017 of Chowdepalli under Sections 354, 506 & 509 IPC etc.,) and later by saying separate charge sheet being filed against A.1, final charge sheet filed against A.2 to A.6 under Sections 420, 323, 313, 506 & 509 r/w 34 IPC in March 2018. The learned Magistrate therefrom taken cognizance of the offences against the accused 2 to 6 (petitioners 1 to 5), who are now impugning the same.

3. Heard learned counsel for the petitioners who reiterated the same, whereas the counsel for the 2nd respondent and the learned Public Prosecutor submit for dismissal of the quash petition saying no grounds to quash and also perused the entire material on record.

4. The contentions in the petition are that they are falsely implicated and they are innocent and law abiding citizens. The 2nd respondent and her family members are habitual litigants involving in various criminal cases viz; Cr.No.60, 69, 62, 63 of 2016 and 23 of 2017 of Chowdepalle Police Station

among others. The petitioners are not having knowledge about the alleged offences committed by A.1 against the defacto-complainant and it is a concocted story in roping them along with the A.1 alleging that they along with A.1 came to Madanapalle and called her to come there, and abused her including saying the A.1 was going to marry by lured one lakh and later A.1 deceived saying his marriage was fixed with his caste girl for dowry of 70lakhs and asked her to stay as his keep and on 15.10.2016 all the accused came to her house and abused with dire consequences and the same are not sustainable and liable to be quashed, thereby and the cognizance order of the learned Magistrate in committal of the case is no way sustainable and liable to be quashed.

5. The learned counsel for the petitioners reiterated the same. Whereas, it is the submission of the learned counsel for the 2nd respondent-defacto-complainant that there is a sustainable accusation from the investigation after registration of the crime by examination of several witnesses, who spoke about role of the petitioners also and from the final report, the learned Magistrate rightly taken cognizance and there is nothing to quash the proceedings against the petitioners and the quash petition is liable to be dismissed which is also the submission of the learned Public Prosecutor also reiterated the same. Perused the entire material on record.

6. The facts referred supra no way requires repetition. The wound certificate issued by the Punganur Deputy Civil Surgeon, dt.26.01.2018 speaks that the defacto-complainant Smt. M.Aruna as injured was seen on 22.10.2016 at 2.45P.M. The First Information Report was dated 16.10.2016. Her statement during investigation recorded was 17.10.2016. From the above, the wound certificate was subsequent to Cr.No.60 of 2016 dt.16.10.2016. It speaks about the miscarriage/ abortion have not occurred previously cannot be given opinion as per the Punganur Deputy Civil Surgeon, dt.26.10.2016. So far as against the

petitioners concerned, there are no any specific allegations with any specific overt acts of any of their role from statements of any of the witnesses except A.1 with regard to the so called abortion or luring the defacto-complainant and exploiting her sexually including for the alleged offence of cheating and criminal intimidation. The allegation attributed to A.2 to A.6 along with A.1 of about 18 months before charge sheet filed, when came to Madanapalli on their calling to come, all of them assured her of the A.1 is going to marry her and lured to arrange one lakh from her, is also hardly believable. The other incident alleged by her is on 15.10.2016 all the accused visited her house and abused with dire consequences. The A.2 to A.6 as per the charge sheet are not even residents of one place but belongs to different mandals of one district and the A.1 is all through in abscondence and in the absence of any specific role in implicating them of the grave crime that too with no substance even on face value of allegations against any of them to rope for any of the offences from the investigation, the cognizance order of the learned Magistrate no way survives to sustain. As entire allegations are against the A.1 who is in abscondence and in whose hands the defacto-complainant was a victim for the grave offence.

7. In the result, the Criminal Petition is allowed by quashing the proceedings against the petitioners/ A.2 to A.6 in P.R.C.No.12 of 2018 on the file of the Judl.Magistrate of First Class, Punganur, Chittoor District. The petitioners/ A.2 to A.6 are acquitted and their bail bonds shall stand cancelled. Pending miscellaneous petitions, if any, shall stand closed.

Date:31.12.2018
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Dr. B.SIVA SANKARA RAO J,