

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.8986 of 2017

ORDER:

The petitioner is the accused in CC.No.76 of 2017 on the file of Additional Judicial First Class Magistrate, Amalapuram, East Godavari District. The 2nd respondent is the defacto complainant. The 1st respondent is the State represented by learned Public Prosecutor in the quash petition. Said CC is outcome of crime No.33 of 2015 of the defacto complainant dated 06.02.2015 to the SHO, Amalapuram, from which the crime originally registered for the offences punishable under Sections 354, 354A, 354D & 506 IPC and the police after investigation filed the charge sheet of the above offences including added Section 195-A IPC vide charge sheet dated 21.12.2016. There are 13 witnesses cited in the police final report including the defacto complainant so called victim-LW.1, her grand father and father-LWs.2 & 3, Assistant Public Prosecutor of the Magistrate Court concerned as LW.4 and the so called other witnesses-LWs.5 to 8 including the circumstantial witnesses and LW.9-Head constable is also one of the so called witness and LW.10 is the constable, LW.11 is the learned Magistrate who recorded Section 164 Cr.P.C. statement of LW.1, LW.12 is the SI of police who registered the crime and LW.13 is the Inspector who investigated and filed the final report.

2. Before coming to the contentions in the quash petition in seeking to quash the said CC by impugning the cognizance order right from the registration of the crime by pleading innocence of the petitioner/accused advocate by avocation is no other than advocate to defend the husband and other family members of the husband of the defacto complainant herein in CC.No.482 of 2008 renumbered as CC.No.1 of 2014 outcome of crime No.80 of 2008 of the selfsame defacto complainant of Ainavalli PS for the Sections 498-A, 386, 312, 341, 448 & 506 r/w 34 IPC under trial.

3. Now coming to the contentions in the quash petition in pleading innocence of the petitioner/accused that the police report and the investigation from the statements of the witnesses is nothing but abuse of process and it is a false report and actuated with malice and ill-will in setting the law in motion with untrue averments and also the investigation not fairly and properly conducted in filing of charge sheet having taken time of nearly 2 years from registration of crime. It is unknown had there been any little truth why she did not immediately bring to the notice of the Court of the alleged happenings in the Court and what waited to report for 50 days thereafter and the explanation is also an after thought. By the time anticipatory bail obtained by the petitioner in Crl.M.P.No.172 of 2015 dated 12.02.2015 from the order granting anticipatory bail referring to the police investigation there are only 3 witnesses examined from registration of the

crime dated 06.02.2015 and all other witnesses only in taking about one year 10 months therefrom to file final report by citing LWs.4 to 13 also in all including IOs and the charge sheet shows as if LWs.1 to 10 are examined on 07.02.2015 which doubts the credibility of the investigation of the statements with anti-date created. Her allegations are untrue and unfounded including from her transfer petitions filed in 2014 in District Court, Rajahmundry of CC.No.482 of 2008. No eye witness of the Court staff or Court Officer examined if at all there is any truth of such alleged happening but for planting some witnesses conveniently. It is only a pressure tactics to dictate the petitioner/accused to cause settle the scores between the defacto complainant and her husband in said CC.No.1 of 2014 and other matrimonial disputes and the prosecution otherwise no way sustainable and thereby liable to be quashed.

4. The defacto complainant having appeared through advocate by filing vakalat on 11.12.2017 in the present quash petition and having continued that advocate from the notice ordered on 26.10.2017, later when the matter came for hearing appeared by advocate on record by Sri Mangena Sree Rama Rao, when heard taken time for further submissions and posted under the caption for orders on 28.11.2018 to next day 29.11.2018 and on 30.11.2018, the advocates sought time to submit written arguments and thereby posted to 05.12.2018 under the same caption. On 05.12.2018 it is

the defacto complainant-2nd respondent appeared in person in saying her advocate on record Sri MS Rama Rao has given no instructions and she wants to engage another advocate of Kakinada and sought time to submit further arguments. Thereby it was posted to 10.12.2018 and on that day she appeared in person and her advocate who is on record so far in Court memo of no instructions of filed by him and did not appear and she did not engage any other advocate and it is at her request thereby posted to 12.12.2018. It was on 14.12.2018 when the matter listed she has submitted written arguments and in reply to it from the learned counsel for the petitioner and heard the learned Public Prosecutor representing the 1st respondent-State and perused the material on record.

5. Learned counsel for the petitioner also placed reliance on the constitution bench expression of the Apex Court in **Iqbal Singh Marwah Vs. Meenakshi Marwah**¹ besides submitted the material papers in the form of book.

6. Heard both sides as referred and perused the material as referred supra.

7. For sake of convenience as it is the party in person argued in part in additional to what were the arguments on her behalf submitted initially by her counsel on record. The written arguments submitted by her are reproduced herein:

¹ (2005) 4 SCC 370

**“WRITTEN ARGUMENTS FILED BY THE
RESPONDENT NO.2**

1. I submit that I am the 2nd Respondent herein in the above Crl.P.No.8986 of 2017. That the above said Criminal Petition filed by the Petitioner before this Hon’ble Court to quash the C.C.No.76 of 2017 on the file of the Additional Judicial First Class Magistrate, at Amalapuram, East Godavari District against him and also to grant stay of all further proceedings in C.C.No.76 of 2017 including Petitioner appearance.

Brief Facts of the Case:

2. I submit that I made a Complaint to the SHO, Amalapuram Town Police Station on 06-02-2015 against the Petitioner for severe allegations, the said SHO had registered a Crime No.33 of 2015, u/ s. 354, 354A, 354D and 506 of IPC. Investigation Officer has conducted inquiry into the said allegations and submitted their report along with charge sheet to the Trial Court (the Hon’ble Additional Judicial First Class Magistrate, Amalapuram) on: 21-12-2016 along with list of witnesses in C.C.No.76 of 2017.

3. I further submit that my marriage was performed with Sri Gummadi Vamsi Chakradhar on 3-2-2007 at Visakhapatnam as per our customs and tradition in the presence of elders, well wishers, friends and others. After the marriage ceremony, I joined with my husband at his matrimonial home. We lead marital life happily for some time, afterwards, my husband along with my mother in law and other relatives of him started harassing me both physically and mentally and demanded me to bring an amount of Rs.50,00,000/- towards additional dowry from my parents and necked me out from their house. Then I came to my grandfather’s (Kamuju Vijaya Bhaskara Rao) house and residing at Siripalli Village, Amalapuram. Immediately, my husband and his men came to My Grandfather Village and again attacked me, in the meanwhile my

grandfather and elders of the same village cautioned them but they did not change their mind and used unparliamentarily language. I made a complaint against them at Ainavilli Police Station, the same was registered as Crime No.80 of 2008, u/s. 498(A), 386, 312, 341, 448, 506 r/w 34 of IPC against them. After completion of Investigation, charge sheet was filed by the Investigation Officer vide CC.No.482 of 2008, subsequently that the said case is transferred to the Junior Civil Judge at Amalapuram i.e., C.C.No.1 of 2014.

4. I further submit that the Petitioner is a Legal Practitioner and acting as the counsel of my husband (Sri Gummadi Vamsi Chakradhar) in the above said case i.e. C.C.No.1 of 2014, when I used to attend the court on each and every adjournment, the Petitioner used to wink against me, asking to come to Lodge or Guest House and thereby used to insult me. I strictly told to him that I am not such type of person and it is not good on his part to ask in the above manner, on: 17-12-2014 I deposed my evidence at about from 3-30 PM to 6-30 PM and my father deposed Chief from 6-35 PM to 9-00 PM in the above said Court and again on 18-12-2014 me and my father attended to the above said Court for cross examination, and I deposed my evidence between 12-15 PM to 2-10 PM and 2-30 PM to 5-30 PM and 7-00 PM to 8-30 PM. The Petitioner/Accused caused inconvenience by doing character assessment and made false implication against me, even though I suffered mentally and I adjusted myself since that is the part of cross examination. After completion of inquiry in the Court at about 8-30 PM, me and my father are waiting for signing on the papers of deposed evidence, the Petitioner/Accused again came to me and told that my husband is giving maintenance to me every month, if I would keep illicit contact with him, all of my problems

will be solved, even though, the petitioner/ Accused touched me by back stroking gently and insulted me laughing in the presence of my father Sri Mattaparthi Sureswara Rao(L.W.No.3 in Crime No.33 of 2015), Sri Nellii Anand Rao (L.W.No.4 in Crime No.33 of 2015) who is present APP, Sri Damiseti Veerannababu (L.W.No.8 in Crime No.33 of 2015) who is working as Home Guard, Sri Kudupudi Veknateswara Rao(L.W.No.9 in Crime No.33 of 2015) who is working as Head Constable of Mummidivaram P.S. and Sunkara Lakshmi Mani Kumari (L.W.No.5 in Crime No.33 of 2015) who attended the court on her case, that they are witnesses in the above occurrence. In the meanwhile my father and above witnesses cautioned the Petitioner but he simply left from that place. Therefore, I could not make a complaint against him.

5. I further submit that on each and every adjournment when I attended the court on 31-12-2014, 20-1-2015, 22-01-2015, 23-01-2015 and 28-01-2015, the Petitioner heckled at me and insulted me saying that as I came from royal family and I need 1 lakh rupees as maintenance. On 06-02-2015, I along with my Grandfather Sri Kamuju Vijaya Bhaskara Rao (L.W.No.2 in Crime No.33 of 2015) attended to the maintenance case (M.C.No.1 of 2014 Hon'ble Addl. Judicial First Class Magistrate, Amalapuram) at about 12-15 noon the Petitioner came to me and again misbehaved with me in the above manner and also at about 1 PM he came to me and insulted me with obscene words, immediately my Grandfather questioned him for his indecent behaviour, on that the Petitioner abused him in URDU language, then I started enquiring about the meaning of URDU sentences, it is came to know through one unknown person who is well versed in URDU language explained as "I am in well acquaintance with ISI agents. If I thought I can kill you and your daughter by pouring

Acid on her face and further pronounces Jihad Jihad", but I learnt the same meaning as after he (Unknown Person) explained. The Petitioner is being a legal practitioner, he told to me many times in the court premises when I attended the court case that he can influence Rowdies, Politicians etc., and he had no fear and threatening as he known rowdies, he had knives, acid bottles and guns with him and he would kill me without any evidence. The petitioner threatened all of my witnesses at the time of examination in C.C.1/2014, at which some of the witnesses were afraid of facing the petitioner, thereby affected my petition with acquittal. The petitioner created terror in our minds and also threatened me by keeping my photo with another male will put the same in social media and also he would create as if I as prostitute. In view of the same, the said matter was brought to the notice of elders Sri Kamuju Srinivas (L.W.No.6 in Crime No.33 of 2015) and Sri Mattaparthi Atchuta Ananada Rao (L.W.No.7 in Crime No.33 of 2015), then the above elders and some other advocates in the Amalapuram Bar, APP Office Staff and others who in turn called the Petitioner/Accused, questioned his behaviour but he didn't respond properly. Immediately I went to Town Police station and made a complaint against the Petitioner on 6-2-2015 at about 5-00 PM. Therefore, delay of 50 days in filing Complaint to the Police will doesn't arise.

6. I further submit that after lodging a complaint on 06-02-2015 at 500 PM at Amalapuram Police Station, immediately on next day morning around at 7-30 to 8-00 AM, me and my Grandfather were went to the temple, some of the unknown Rowdy elements blocked us, threatened and compelled me to withdraw the above complaint against the said Petitioner. Again I lodged a complaint against the Petitioner on 07-02-2015 at Town Police Station at Amalapuram. As I

refused to withdraw the Complaint against the said Petitioner, the Petitioner abetted his junior by the name Suresh, who hail from Schedule Caste Community to lodge a false Complaint under SC and ST Atrocities Act against me at around 6-30 PM on 07-022015 and they demanded me to withdraw all of the Complaints against the Petitioner to get relief in the atrocity case.

7. I further submit that I am suffering from my husband and in laws since long, therefore I approached the Court of Law for seeking justice, but I am not habituated to make false complaint against the Petitioner and others. Being a citizen and constitutional protectionist I am having every right to protect my skin. At the same time Lawyers are being respectable persons in the Society, but the Petitioner behaviour, attitude, way of appearing is totally different and he is having habituated to touch my skin and insulted me with obscene words in many times in the presence of my father, Grandfather and others. So many times elders cautioned him but he did not change his attitude. Due to the same my father was hospitalized and ultimately I lost my father on 02-01-2016.

8. I further submit that before I made a complaint to the Police I consulted the 3rd Parties is totally incorrect, being a woman I took help from the elders and well wishers, they cautioned the Petitioner for several times, even though he did not change his attitude and behaviour, moreover he did not expressed any sorrowfulness before the elders. In view of the same, with no other option I approached the concern Police Station and made a complaint against him on the same day. Therefore, I approached the Town Police Station, Amalapuram and lodged a complaint for taking necessary action against him on 6-2-2015 at 5.00 PM.

9. I further submit that the Investigation Officer had filed charge sheet on 21-12-2016 before the Hon'ble Addl. Judicial First Class Magistrate, Amalapuram along with list of witnesses' depositions in C.C.No.76 of 2017. That LW No.4 is present APP in the same court, LW.No.8 is present Home Guard at APP Office and LW No.9 is present Head Constable of Mummidivaram PS. and L.W.No.5 who attended the court on her case.

10. I humbly submit that the Asst. Public Prosecutor by name Sri Nelli Ananda Rao who is appearing on behalf of State i.e. on my side in Criminal Case Nol/2014, he refused to sign on some papers in the court by stating the reasons that it is not fair to take evidence from a lady (2nd Respondent herein) and her father who is very sick at such late night around at 8-30 PM on 17-12-2014 and also the Hon'ble Judge hadn't recorded the deposition properly. But the Hon'ble Judge compelled me and my father to sign on the deposition papers; otherwise she threatened me that she will dismiss all of my cases. Immediately to suppress the facts happened at Court, my husband with the abetment of the said Petitioner, made a representation against the Asst. Public Prosecutor to the Director of Prosecution Office, Saifabad, DGP Office Complex, Lakdikapul, Hyderabad, dt: nil, for several false allegations.

11. I further submit that in case this Hon'ble Court will grant any relief or quash the C.C.No.76 of 2017 in favour of the Petitioner, he will torture and practice all of his Criminal tactics on innocent people to meet his illegal demands.

12. I further submit that the Hon'ble Supreme Court held in catena of decisions that the speedy trial of criminal cases is a fundamental right of the accused. But in the instant case the Petitioner protracting the trial and seeking to quash the C.C.No.76 of 2017 on

the file of the Addl. Judicial First Class Magistrate, at Amalapuram, East Godavari District against him, without the conduct of Trail truth will be suppressed and again lays a foundation for the criminal politics. In view of the same that the above Criminal Petition No.8986 of 2017 is liable to dismissed with exemplary costs.

In view of the same, I pray that this Hon'ble Court may be pleased to dismiss the above criminal petition No.8986 of 2017 in the interest of justice."

8. From the above the law setting in motion in registration of the crime requires to mention the contents of FIR registered at 5 PM on 06.02.2015 by the SI of Police, Amalapuram Town that reads the distance from place of occurrence to the police station is 2 Kms North and the information received in registration of the crime was at 5 PM on that day from the defacto complainant appeared in person presented the report (Telugu typed running in 2 pages). The FIR reached the Court on that day at 10.15 PM as per the endorsement of the learned Magistrate. The report reads one Vamsi Chakradhar is her husband of Visakhapatnam and her name is G.Sailaja and she is native of Krishna District, Vijayawada Town and resident of East Godavari District, Ainavilli Mandal, Siripalli Village that after her marriage with her husband supra dated 03.02.2007 at Visakhapatnam she was subjected to cruel and ill-treatment including for additional dowry of Rs.50,00,000/- by her husband and his mother and other relatives who are accused of crime No.80 of

2008 covered by CC.No.482 of 2008 in saying for jurisdiction of Siripalli Village for the crime, her husband and other relatives came in attack on her at Siripalli, having necked her out earlier from their house and case is now pending after transfer as CC.No.1 of 2014 before the JCJ Court, Amalapuram, and one Md. Azam (petitioner/accused herein) is the advocate of her husband and his family members in CC.No.1 of 2014.

9. Coming to the accusation in registration of the crime from the report Para 2 onwards is that in CC.No.1 of 2014 under trial, on 17.12.2014 she and her father came to Court and deposed in chief examination and for cross examination it was posted to next day dated 18.12.2014. It was on 18.12.2014 said Md. Azam advocate on behalf of her husband and other relatives (accused) in CC cross examined her and in that course of cross examination he attributed unchastity by suspecting her fidelity, the advocate even put a question saying can she know the age of him (advocate) by saying though he is apparently elder he is younger in age and moved his eyes and she was demeaned in that course in the Court proceedings and she downed her head to the eyes of all the persons in the Court hall. Even the advocate talked indecently towards her father in the court proceedings as 'pora po'.

10. So far as the above occurrence of her report concerned, it is in the Court proceedings in the course of

cross examination of her while recording by the Court. It is not even her case that anything recorded in the deposition of her from any question and answers much less asked by her or by the APP who is conducting prosecution and cause chief examined her and there is no re-examination. There is nothing in her chief examination or cross examination as to anything indecently behaved by the advocate either earlier or on that day in the course of her cross examination, leave it apart if at all it was done so, it is in the course of the proceedings an application under Section 340 Cr.P.C. should have been filed to record a finding to that effect of the Court proceedings and make a request to the Court cause to file a complaint in writing by sending to the Magistrate having jurisdiction. The bench clerk and the court process server readily available apart from judicial officer in the court proceedings not cited any one as a witness much less examined anybody by the investigating officer who are the natural witnesses, leave about under Section 165 of the Act the Court must alive in the proceedings including while recording evidence and if at all anything happened that should reflect in the deposition to the extent any objectionable question raised to reject and or reflected in the Court docket as to any untoward thing happened in the court proceedings. The docket proceedings are sacrosanct with all sanctity to rely and the perusal of the docket proceedings of

the Court in CC.No.1 of 2014 on 17.12.2014 and 18.12.2014 reads as follows:

“Docket order dated 17.12.2014:

A.1 present. A2 to A4 absent. Petitions under Section 317 Cr.P.C. filed and allowed. LWs.1 & 2 present. LWs.1 & 2 are examined in chief, due to short of time, as APP, has to attend to his regular court, the evidence of LWs.1 & 2 was commenced from 2.30 pm, of this day. LWs.1 & 2 are examined as PWs.1 & 2. Ex.P1 marked. Memo filed. Heard. Permitted to examine LWs.3 & 4 on the next working day of APP at Amalapuram i.e., 31.12.2014.

For cross of PWs.1 & 2, call on 18.12.2014.

Docket order dated 18.12.2014:

A.1 present. A2 to A4 absent. Petitions under Section 317 Cr.P.C. filed and allowed. PW.1 present and cross examined. Exs.D1 to D5 marked. PW.2 though represented as present. When called at 5.30 pm, was absent. At request of APP, the matter is passed over till 06.15 pm. After a while, PW.2 present and cross examined. Issue summons to LWs.3 and 4 (as per request of APP on 17.12.2014). Call on 31.12.2014.”

11. From the above docket proceedings there is nothing showing anything happened for the evidence commenced on 17.12.2014 from 02.30 PM, LWs.1 & 2 examined in chief out of 4 witnesses summoned and for cross examination of PWs.1 & 2 posted to 18.12.2014 and LWs.3 & 4 were to be examined on next working day. Coming to the docket of 18.12.2014, A.1 present, A.2 to A4 absent, petition allowed condoning their absence. PW.1 present and cross examined and Exs.D1 to D5 marked. PW.2 though represented as present, when

called at 5.30 PM was found absent. It was at request of APP the matter was passed over till 06.15 PM and only after PW.2's arrival he was cross examined and ordered to be issued summons to LWs.3 & 4 at request of APP by posted to 31.12.2014.

12. What she stated in Para 3 of her report in page No.1 is after the cross examination she and her father PWs.1 & 2 are waiting at the Court to sign on the deposition papers the said Azam advocate of her husband came to her saying every month her husband is paying her maintenance and he the advocate if caught hold everything will be set right and put his hand on her upper back with a laughing manner and insulted her and she put her head down. It was seen by learned APP, her father-PW.2 and the court constables and also some more persons. Her father PW.2 questioned said advocate Azam about his behaviour for which the advocate threatened saying he got ISI links and which PW.2 may not know and if he decide he can kill him and cause pour acid on the face of his daughter to kill and raised loudly saying Zihad Zihad.

13. Is it believable of APP and the constables kept quiet including her father there besides herself without even reporting to the Magistrate at least by filing memo if not by oral approach if get down to the chambers that too it is before signing the deposition which could be only and immediately after recording evidence in open Court from the Judge

transcribes the contents to the understanding of the witness who has signed by admitting as true as part of the Court proceedings. Had the bench clerk or court attender be there they could not even kept quiet without informing the Magistrate if at all Magistrate get down that also does not arise to believe as the deposition to be signed in the open Court before the Magistrate from what is described supra after transcribing and explained what is typed to sign by finding as true.

14. Neither she nor her father nor APP nor the Court constables even chosen to report to police on 18.12.2014 for the alleged incident if at all happened, leave about that is also part of the Court proceedings if at all for the Court to take cognizance any such incident happened at least from her filing an application under Section 340 Cr.P.C. before the Court to forward a complaint for what all happened in the Court of judicial proceedings against the advocate had there been any truth.

15. What she states further in Para 3 of Page No.1 continued in page No.2 of her typed report is that on that after consultations in the family members by informing to elders and when elders called the said advocate and questioned he stated to come and what they can which was on 06.02.2015 by also abuse touching her caste and by stating does she required a husband earning in lakhs and threatened to see what he could do and abused and said

advocate Azam even threatening the witnesses coming to Court to depose on behalf of the prosecution in that case, hence to take action.

16. The prosecution witnesses cited in the charge sheet, there is no witness examined nor she mentioned anybody as to who was threatened to substantiate any such fact of the advocate threatening any witness not to depose. When the alleged incident happened on 17/18-12-2014 in the Court premises it is unknown why she kept quiet to submit the typed report only on 06.02.2015 about 48 days after the occurrence. Is it believable of other than false implication with deliberation and consultations, she kept quiet that too in saying consulted and even informed to elders and elders allegedly questioned. The statement of her during investigation as LW.1 on even date speaks with development which is not in the report as to what all happened earlier even to 18.12.2014 from the say of said Azam defending her in the criminal case CC.No.1/2014 for every time of her attending the Court while coming out in the Court warranda in the presence of witnesses when she was sitting there coming to her and shaking his eyes and asking her to share the bed and was asking her to come to lodge or guest house and insulting and even she was saying she was not that woman and he cannot humiliate her in such a way and she was informing the same to APP and her grand father. It is unknown why she did not even file any memo at least before the Magistrate

of what was happening, why she did not even report to police that too not one time but several times and why she did not even mention in her report not even in written but neatly cause typed and presented on that day. Coming to the alleged occurrence on 17.12.2014 & 18.12.2014 she reiterated the same. So far as report presented by her on 06.02.2015 for what all happened on 18.12.2014 what she further added with development missing in FIR, that on 06.02.2015 when she came for the Court proceedings posted on that day when she and her grand father at Court compound at about 12.15 Noon said Azam came to her and like earlier went indecently talked to her and again at 1 PM he heckled her, talked to her indecently and her grand father Bhaskar Rao when questioned him that advocate abused in Urdu and the nearby persons there knowing Urdu from her enquiry stating of what he stated in Urdu is he knows ISI agents and can kill him and pour acid and kill her and stated as Zihad Zihad. This is also with some development to the FIR. There is further development in saying said Azam also stated about he got politicians and rowdies to his backing with no fear and he got ornaments including pistols, knives and acid bottles with him and got rowdies in his control and he can kill them and missing dead body even with no traces and put her photos in social media and shows as if indulge in sexual activities. On that day K.Srinivas and M.Atchuta Ananda Rao at about 3 PM at the Court compound in the

open place near to the APP room at the car parking room went to said Azam and questioned he stated to complain whom they can and can do him nothing. This is also with development and what she stated further is in between from 18.12.2014 to 06.02.2015 on 31.12.2014, 20.01.2015, 22.01.2015, 23.01.2015 & 28.01.2015 she came for the Court adjournment and Azam advocate heckled at her and indecently talked to her and she belongs to royal family and she wants maintenance of Rs.1,00,000/- and this is also silent in the FIR in that manner.

17. PW.2 grand father Vijay Bhaskar stated part of his was same that of her say and that on 06.02.2015 he came along with defacto complainant who is grand daughter and when they were at the Court at about 12.15 Noon and 1 PM respectively said Azam heckled at her. It is as referred supra silent in FIR and LW.3-her father stated on 18.12.2014 when he and his daughter were coming out after adjournment of the case said Advocate Azam indecently talked to his daughter and even in the course of cross examination used indecent language by character assassination of her. His version is different from what she stated about the occurrence on 18.12.2014 supra. What the LW.4 APP statement reads as defacto complainant was saying to him of said Azam was heckling and insulting her by asking her to come to lodge or guest house and shaking eyes towards her by blinking and she was now and then saying to him. It is unknown why she

kept quiet without even suggesting to give police report or to inform the same to the Magistrate.

18. Though from the above there is some accusation so far as against the advocate concerned, the delay of 48 days in reporting the occurrence of such a grave incident happened on 18.12.2014 itself is fatal to the sustainability of the report nothing but abuse of process that too from what the docket proceedings of the Court on 17.12.2014 & 18.12.2014 are silent in this regard and the bail order of the anticipatory bail obtained by the petitioner on 12.03.2015 in this present crime shows by that time three witnesses shown examined as LWs.1 to 3 and not others and the learned Sessions Judge observed there is force in the contention of the accused of it is a false case foisted and a perusal of the deposition produced of her in the criminal case chief examination and cross examination on 17.12.2014 & 18.12.2014 nothing indicates about putting of indecent question or eliciting any answer much less touching of her chastity and by suspecting her or in insulting manner. Section 164 Cr.P.C. statement recorded as part of investigation long subsequent to that only on 31.10.2015 which is 8 months after the registration of the crime with further developments in saying said Azam whenever occasion arises taking advantage of touching her body and behaving indecently even she was putting up and even she was questioning him and his behaviour or he asked to maintain illicit relationship with her so that he could solve

all her problems which are also with developed version. A perusal of the investigation not even on correct lines and fairly and even bench clerk of the Court or Process server or court attender on duty not even examined and no advocate among several advocates in the criminal Court present chosen to examined leave about anything happened in the Court proceedings it is the duty to bring to the Court to take cognizance.

19. The husband of the defacto complainant in fact submitted a report to the Director of Prosecution by marked copies to the APP, the JCJ where the criminal case proceedings pending and Deputy Director of Prosecution Kakinada about PW.1 created scene in the court so also PW.2 on 18.12.2014 by narrating the facts and the report is subsequent to that after deliberations as a motive to false complaint implicating the advocate of her husband.

20. The inherent powers are meant to prevent the abuse of process of Court and to secure ends of justice and cannot be allowed to use the provisions to wreck vengeance or to settle any scores, but for to continue any legitimate proceedings setting the law in motion and in **State of Haryana Vs. Ch. Bhajan Lal**² one of the guidelines to quash the FIR are that where a criminal proceeding is manifestly attended with malafide intention or where the proceeding is maliciously instituted with an ulterior motive for wreaking

² AIR 1992 SC 604

vengeance on the accused and with a view to spite him due to private and personal grudge and the same was relied by the Apex Court in **Chandran Ratnaswami v. K.C. Palanisamy**³ referring to **State of Karnataka vs. L. Muniswamy**⁴.

21. All the more the delay in reporting the occurrence of 48 days is per se fatal to the very sustainability of the crime and the prosecution from the cognizance order against the petitioner that too when the version of the complainant is with developments from report to her statement before the IO and the same when compared to her statement before the learned Magistrate with convenience and developments and deliberately in reporting of any occurrence if at all anything happened leave about earlier, on 18.12.2014 in waiting for 48 days itself sufficient to quash the proceedings for continuation is nothing but abuse of process.

22. Accordingly and in the result, this Criminal Petition is allowed by quashing the proceedings against the petitioner/accused in CC.No.76 of 2017 on the file of Additional Judicial First Class Magistrate, Amalapuram, East Godavari District.

Miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 31.12.2018
ska

³ (2013) 6 SCC 740

⁴ (1977) 2 SCC 699