

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.9886 of 2018

ORDER :

The petitioners are A.1 and A.2 in C.C.No.166 of 2018 on the file of the Additional Judicial First Class Magistrate, Kavali of SPSR Nellore District, out come of the report of the 2nd respondent-*de facto* complainant in Crime No.9 of 2018 of II Town Police Station, Kavali, SPSR Nellore District, registered for the offences punishable under Sections 341, 323 and 290 read with 34 IPC and after investigation the police filed the final report that was therefrom taken cognizance for the offences supra in allotting C.C.No.166 of 2018 and impugning the same, the present quash petition is filed.

2. Heard learned counsel for the petitioners and learned Public Prosecutor, representing the State-1st respondent and taken as heard the 2nd respondent-*de facto* complainant, for proof of service filed, she failed to attend even acknowledged the notice.

3. The sum and substance of the accusation in the F.I.R., dated 18.01.2018, of the *de facto* complainant is that she is a house wife, her husband is doing real estate business, that in 2012 from K. Jayarami Reddy and K. Lingamma of Chevoorivari Thota, Kavali Town, Rs.11,00,000/- borrowed and as security purpose, they obtained (5) pronotes and four cheques and also obtained registration for (2) plots out of 67 ankanams land and they are paying for the amount towards interest at Rs.3/- per Rs.100/-, nearly paid Rs.16,00,000/- for more

than four years and in 2016 for the balance, when they asked to take the plots and return back the cheques and pronotes, they pretended that those were in lockers and failed to give and thereafter including through their son-in-law i.e., husband of A.2/D.Anusha @ Rajani, for the past nine months K.Lingamma (A.1) is threatening over phone and A.1 was abusing like anything. Not only that, on 17.01.2018 at about 11.30 a.m., when she along with another were going to Praveen Hospital, A.1 and A.2 stopped her at their house and Rosi Reddy, son-in-law of A.1 and husband of A.2, also abused the husband of the *de facto* complainant and when the *de facto* complainant responded saying she will talk to A.1, Rosi Reddy and A.2 beat her with hands and legs and attacked. She further stated immediately when she tried to come to the Police Station to give report, persons there wanted to settle and she waited and there was no compromise, hence to take action.

4. The police after investigation from the said report by examination of five witnesses, citing the LW.6-Investigating Officer as registered F.I.R. and investigated the case and filed the charge sheet, the learned Magistrate has taken cognizance from the said final report. The sum and substance of the final report speaks that on 17.01.2018 at about 11.30 a.m. while LWs.1 and 2-P. Thulasi and P.Srinivasulu Reddy were going on bike and reached near the house of A.1, they were restrained and abused regarding the money issues and caused public nuisance and also physically attacked and beat

LW.1-*de facto* complainant. There is nothing to show there is any wound certificate and there is any sustaining of injury external from the report and from the investigation there is no any medical record to attract any offence under Section 323 IPC. There is no any public nuisance in public place as defined in Section 268 IPC to attract Section 290 IPC from mere abused the public place will not automatically attract Section 290 IPC and coming to the wrongful restraint and the alleged abusing and beating, though the statements *prima facie* show a perusal of the record, it is out come of the money transaction and from the *de facto* complainant very F.I.R. and the statements, the money transaction is since 2012 and since 2016 she is asking to return the so-called pronotes and cheques by taking the plots registered in the name of the accused by the *de facto* complainant and it was not fructified and that for the past nine months accused are allegedly threatening over phone and she never chosen to issue any police report, much less in writing earlier for there is no scrap of paper of the facts supra, it is hardly believable when she was going along with LW.2 all of a sudden A.2 and her husband restrained and abused or beat with hands and legs and she did not even state who were the elders stopped her without going to the police station immediately after the occurrence and where the dispute raised for her say of the alleged explanation as to how and why it was not settled. Having regard to the above, the dispute is predominantly civil in nature added

with criminal flavour, no way can be permitted to continue as it is nothing but abuse of process to continue the same.

5. Accordingly, the criminal petition is allowed quashing the proceedings against the petitioners/A.1 and A.2 in C.C.No.166 of 2018 on the file of the Additional Judicial First Class Magistrate, Kavali of SPSR Nellore District. The bail bonds of the petitioners/A.1 and A.2 shall stand cancelled.

Miscellaneous petitions pending, if any, shall stand closed.

Dated :19 -12-2018

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Dr. B. SIVA SANKARA RAO, J

