

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.7367 of 2017

ORDER:

This Criminal Petition, under Section 482 of Cr.P.C., is filed by the petitioner/accused, seeking to quash the proceedings against him in C.C.No.652 of 2017 pending on the file of III Special Magistrate, Kukatpally, Ranga Reddy District, which is registered for the offences under Sections 447, 506 and 290 I.P.C.

2. Heard the learned counsel for the petitioner, learned Assistant Public Prosecutor representing the 1st respondent-State and also learned counsel for the respondent-*de facto* complainant, and perused the record.

3. The learned counsel for the petitioner would submit that the petitioner is a practising Advocate. At the instance of former husband of respondent-*de facto* complainant, in anxiety went to her flat pursuant to the orders passed by the Division Bench of this Court in F.C.A.No.112 of 2016 on 05.01.2017, as the child was not produced in the Botanical Gardens on Sunday between 9:00 AM and 6:00 PM, the alleged incident took place. As the petitioner is the close friend of husband of the respondent-*de facto* complainant, knowing fully well, she made a false report against him. Thereafter, charge sheet is filed and the charge sheet is numbered as C.C.No.652 of 2017 pending for trial before the III Special Magistrate, Kukatpally, Ranga Reddy District. There are no circumstances to continue the trial of the case and ultimately, prayed to quash the proceedings.

4. Learned Assistant Public Prosecutor contended that there is a substantial material on record to proceed with the trial of the case to find out the truth or otherwise of the allegations made.

5. Learned counsel appearing for the respondent-*de facto* complainant would submit that as per the record placed before the Court, there is a *prima facie* case. There are CC Camera footages available. Neither the petitioner is an advocate of her former husband nor relative and he has nothing to do with the production of the child as ordered by the Division Bench of this Court. Even if there is any default in production of the child before the Botanical Gardens between 9:00 AM and 6:00 PM on every Second Sunday, the former husband has to take appropriate measures before the Court. There are grave allegations against the petitioner. It is not a case to quash the proceedings and ultimately, prayed to dismiss the petition.

6. In view of the contentions put forth before this Court, the point for determination is:

Whether the proceedings in C.C.No.652 of 2017 pending on the file of III Special Magistrate, Kukatpally, Ranga Reddy District, are liable to be quashed?

7. As seen from the record, charge sheet is filed against the petitioner for the offences under Sections 447, 506 and 290 I.P.C. As per the prosecution case, on 08.01.2017 (Second Sunday of calendar month), the child Master Adarsh of the respondent-*de facto* complainant had fallen sick due to cold and viral fever and he was not feeling well; he was taken to hospital on that day and was advised to take rest. Around 2:00 PM on that day (08.01.2017

Second Sunday) the petitioner/accused is alleged to have trespassed into the flat of the respondent-*de facto* complainant and stated that he was sent by her former husband and forced her to handover her child to him without there being any valid document or authorisation even being informed that the child was sick. It is submitted on behalf of the respondent/*de facto* complainant that the health condition of the child was informed in the Court to her former husband. In spite of that, the petitioner-accused, to agitate, without showing his identity card, entered into her premises. There is also an allegation against the petitioner-accused that he has abused the respondent-*de facto* complainant and her child in filthy language. There is also an allegation that he made vulgar gestures to her knowing fully well the *de facto* complainant was alone in the house. There is also an allegation that he threatened her to handover her child. When she made hue and cries, apartment security persons came there. There is also an allegation of this petitioner holding a video camera and taking the pictures of the respondent-*de facto* complainant without her consent. She contends that the pictures were taken without consent with a *mala fide* and dishonest intention. She also stated that she is apprehending danger in the hands of the petitioner herein as well as her former husband. As per the prosecution case, the child Master Adarsh and the watchman are stated as eye witnesses to the alleged incident. They have also supported the prosecution case. There are allegations against the petitioner constituting the offences under Sections 447, 506 and 290 I.P.C. It cannot be held that the petitioner is an innocent person and he did not indulge in the alleged incident. The truth or otherwise of

the allegations can only be determined after due trial. Under these circumstances, it cannot be said that there is no *prima facie* case against the petitioner and the continuation of proceedings before the Court are abuse of process of law. The criminal petition is devoid of merits and therefore, it is liable to be dismissed.

8. In the result, the Criminal Petition is dismissed. Miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 07.03.2018

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