HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.10407 of 2018

ORDER:

The petitioner is A.3 among 3 accused of crime No.694 of 2006 of Banjara Hills Police Station and from the investigation filed final report that was taken cognizance for the offences punishable under Sections 384, 506 r/w 34 IPC and Section 12(1)(b) of the Passport Act (for short 'the Act') and numbered as CC.No.1271 of 2018 pending on the file learned III Additional Chief Metropolitan Magistrate, Hyderabad.

The sum and substance of the report of the defacto complainant-LW.1-MA Khan, business person of road No.2 Banjara Hills, is that he is the Managing Director of Power Max Generators with Office at Road No.10 Banjara Hills, on 05.09.2006 morning at about 9.45 AM received a phone call to his mobile number 9849055552 from the mobile number 870764599987 claimed himself as Shanker from Malaysia a representative of mafia Chotta Rajan Group and asked for a ransom of Rs.5 crores. Again on 06.09.2006 at 11.15 hours said person called him and he did not answer, immediately he called upon his office phone and threatened the staff Sk.Shabuddin @ Shoeb and Jose Thomas by pressurizing them to make the defacto complainant to attend the call but he did not. Again on 07.09.2006 at about 08.45 hours he got 3 or 4 blank calls from 91-4069902147 and when he attended the call no body answered. That again at 10.30 hours on that day, same person called him from cell phone number supra 870764599987 and threatened him with dire consequences to pay Rs.5 crores within 24 hours, failing which to resort to harmful means to collect the amount from him and further informed that they did not bother about any police intervention and challenged him to do whatever he wants, then he approached the superior officer of police and lodged the complaint to take action and it is also his statement during investigation and the other witnesses 2 staff members supra of defacto complainant-LW.1 i.e., LWs.2 & 3 stated in same line. The police in the course of investigation i.e., LWs.11 & 12, the Sub Inspectors who registered the FIR and filed charge sheet respectively did not choose to ascertain said telephone numbers from where and from what end received by defacto complainant even he mentioned 2 telephone numbers as to ascertain the address of those persons. It shows in the course of investigation, A.1 was apprehended and he was produced with remand report dated 03.07.2007 and A.3 was also apprehended on 20.04.2009 and produced with remand report. It is mentioned in the charge sheet about there are disclosure statements made by A.1 and A.3 respectively at the time of the respective apprehension and arrest. The remand report respectively speak about the offences under Sections 384, 506 IPC and Section 12(1)(b) of the Passport Act.

So far as the Section 12(1)(b) of the Passport Act concerned, there is a specific bar under Section 15 of the Act which mandates for any prosecution to be instituted against any person in respect of any offence under this Act, previous sanction of the Central Government or such officer or authority as may be authorised by that Government by order in writing in this behalf is a pre-requisite. Here there is nothing from perusal of the charge sheet of any such sanction applied or obtained in writing. Thereby the cognizance taken is unsustainable for want of sanction so far as the offence under Section 12(1)(b) of the Passport Act concerned. Coming to the other offences under Section 384 & 506 IPC, the offence under Section 384 IPC is extortion from the very report of the defacto complainant including from his statement there is nothing to show any amount extracted, but threatened to extract in the attempt for extortion at best the crime registered was 694/2006 dated 10.09.2006 from the report dated 07.09.2006 of the occurrence from 05.09.2006 to 07.09.2006 the police did not as mentioned supra to fix the complicity of the accused particularly petitioner/A.3 not even verified with any cell phone numbers. The remand report of A.3 shows seizure of his passport allegedly with false information in charging under Section 12(1)(b) of the Act referred supra and seizure of 2 sim cards with Nokia E-90 cell phone and sim card numbers one from Hyderabad 9004378862 and the other from Dubai 050-2898980 even these numbers are no way co-relate to the threatened calls allegedly received by LW.1-defacto complainant of 2 numbers mentioned.

Thereby there is no basis to find the petitioner/A.3 responsible even for the so called attempt to threaten and criminal intimidation for the 2 offences punishable under Sections 384, 384 r/w 511 and 506 IPC.

Having regard to the above and in the result, this Criminal Petition is allowed by quashing the proceedings so far as against the petitioner/A.3 concerned in CC.No.1271 of 2018 on the file of learned III Additional Chief Metropolitan Magistrate, Hyderabad.

Miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 22.10.2018
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