

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.11436 of 2018

ORDER:

The petitioners are accused Nos.1 & 2 no other than father and son by names P.Vijayanand Reddy and P.A.Narayana Reddy in CC.No.930 of 2017 pending on the file of learned IX Metropolitan Magistrate, Kukatpally at Miyapur, taken cognizance for the offences punishable under Sections 354, 448 & 506 IPC against A.1 and Sections 448 & 506 IPC against A.2 which is outcome of crime No.956 of 2010 dated 01.10.2010 registered by Kukatpally PS on the report of the 2nd respondent-defacto complainant by name Smt. Dhanalaxmi. They are seeking to quash the CC proceedings.

2. The contentions are that it is a false report of the defacto complainant dated 01.10.2010 registered at 21.00 hours for the alleged occurrence on 30.09.2010 at 09.00 PM in alleging A.1 entered into the house of the defacto complainant saying sent by one Hanumanthrao and threatened her and her husband by pushed her husband and caught hold of hand of her younger daughter saying how she could go to college next day and also abused her husband in filthy and to settle the money disputes in the office of Hanumanthrao by creating nuisance. It is averred that the false complaint was lodged to avoid an amount of Rs.1.18 crores due with interest by husband of complainant named Bhagavantha Rao covered by loan repayment document dated

01.06.2010 borrowed from A.1 by providing agricultural land of Nagarkurnool and Andhra Nagar and house at Hyderabad as security and also executed agreement of sale-GPA by husband of defacto complainant in favour of A.1 for the lending on 18.12.2008 for the house plot No.88 in S.No.102, admeasuring 300 square yards with RCC 3 storied building with built up area 6100 square feet at Bagh Ameerri Village, Kukatpally Municipality, Balanagar Mandal, for consideration of Rs.59 lakhs and having received Rs.39 lakhs delivered vacant possession to A.1 and A.1 also paid balance Rs.20 lakhs later as well as additional loan amount of Rs.59 lakhs that were not paid by complainant's husband and to avoid the loan hatched the plan. No offence under Section 354 IPC attracts from said allegation so far as against A.1 for nothing to show any intentional outrage or knowing of likely thereby outrage modesty of victim and mere alleged of caught hold of hand of daughter of complainant or pushing the husband of the complainant no way attracts either the offence under Section 354 or Section 506 or Section 448 IPC, leave apart plot No.88 in S.No.102 of 300 square yards with 3 storied building of Bagh Ameerri village supra is in the possession of A.1 that was delivered by husband of defacto complainant under sale agreement-GPA dated 18.12.2008 and there is no question of trespass and so far as the alleged criminal intimidation there is nothing to say in the factual matrix as to attracting of any of the offences therefrom and the

proceedings are liable to be quashed thereby including against A.2 for the alleged offence of trespass and criminal intimidation and police did not properly consider the material in filing the charge sheet and the cognizance order of the learned Magistrate in allotting CC number for the offences no way sustain.

3. Notice served on the 2nd respondent-defacto complainant is a sufficient service from non-furnishing of change of address having left. Heard learned counsel for the petitioners and learned Public Prosecutor and perused the material on record.

4. The sum and substance of the accusation in the FIR of the defacto complainant dated 01.10.2010 addressed to the ACP Kukatpally and copy received by the Inspector in registration of the crime reads that there are financial transactions and disputes in relation thereto between husband of the defacto complainant Bhagavantha Rao, one N.Hanumanth Rao and one Pramod Kumar who did joint business together, that her husband is a retired EE Panchayat Raj aged about 65 years suffering from heart ailments and he stood as mediator for the lending by Hanumanth Rao and Pramod Kumar and for that sin having threatened her husband by accused persons and Hanumanth Rao, obtained promissory notes, cheques and GPA for the property and also taken Rs.40,75,000/- from her husband and also locked a portion of house on 10.05.2010 and kept

their people and creating a lot of nuisance including in nights. While so, on previous day at 09.00 PM by saying sent by Hanumanth Rao, A.1 and A.2 came to the house of the defacto complainant and her husband and threatened her and bet him and pushed him and caught hold of their younger daughter by Vijayanand Reddy and questioned as to how she could go to the college on next day and abused her husband donga lanza kodaka batalu udadeesi thantanu and even she stated if at all there are money transactions settle at Hanumanth Rao office and they created scene hence to take action.

5. The allegation of caught hold of hand of the daughter of the defacto complainant is by A.1, simply stated caught hold of the hand and questioned as to how she could go to the college on next day and nothing more there is no intention of outraging the modesty either by acts or words or gestures etc., even to attract the offence under Section 354 IPC or with the lesser offence under Section 509 IPC against any of the accused particularly for the allegation against A.1. So far as criminal intimidation concerned, there is nothing showing any intimidation creating panic in the mind of the victim to attract the offence under Section 506 defined in Section 503 IPC against both the accused. So far as the alleged trespass concerned, the very report shows for the lending by Hanumanth Rao one of the rooms of the house was kept in lock and key since 10.05.2010 and people of

Hanumanth Rao were coming and going. Once such is the case, it is hardly believable of alleged trespass. Undisputedly there are money transactions between the complainant's husband and Hanumanth Rao and the accused persons are stated to be persons of Hanumanth Rao and it predominantly an outcome of civil dispute for recovery of amounts lent.

6. Having regard to the above, adding criminal flavour and that too for none of the ingredients of the 3 penal provisions mentioned without that attracts, the continuation of proceedings is nothing but abuse of process as held in **Vesa Holdings Private Limited & another Vs. State of Kerala**¹ and **Paramjeet Batra Vs. State of Uttarakhand**².

7. Accordingly and in the result, this Criminal Petition is allowed by quashing the proceedings against the petitioners/A.1 and A.2 in CC.No.930 of 2017 pending on the file of learned IX Metropolitan Magistrate, Kukatpally at Miyapur, accused are acquitted and the bail bonds of the accused, if any, shall stand cancelled.

Miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 05.12.2018
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¹ (2015) 8 SCC 293

² 2013 (11) SCC 673