

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.11734 of 2018

ORDER:

The petitioners are accused Nos.1 to 4 in C.C.No.699 of 2018 on the file of learned II Additional Judicial Magistrate of First Class, Machilipatnam, Krishna District, which is outcome of report of the 2nd respondent defacto complainant in registering the crime No.185 of 2017 dated 14.11.2017 for the offences punishable under Sections 354A(1)(i) and 506 IPC. The alleged occurrence was on 16.04.2017 as per the FIR.

2. The sum and substance of the accusation from the report of the defacto complainant dated 14.11.2017 addressed to the SHO, Chilakalapudi Police Station, 1st respondent represented by State is that she is secondary grade teacher working since 19 years and also as NCC 2nd officer in RCM school for the past 18 years and she is a widow. For the past 3 years to the report, the Elementary School HM K.Vijaya Kumari and High school HM M.Mariyamma forcing her to go out from that post so as to appoint their relative T. Siva Bala as NCC teacher and they also went to NCC office and are planning to remove her as to what is the procedure by enquiry and she belongs to Christian SC community. It is while so in May 2017 when she was to go to Puligadda NCC camp she sent for the documents requiring HM signature and sent to HM

Mariyamma who did not sign. She went and asked many a time and she replied saying she received the documents, but not giving by signing saying she has to wait whenever she can give to receive, she in that way postponed and did not sign the documents and return back. She further stated that prior to that on 03.04.2017 spot valuation Government duty order of SCC examination received and she asked HM Vijaya Kumari relieving order so to attend. She consulted HM Mariyamma and Jayaraju and stated that unless she resigns the NCC duty the relieving order they were not giving to go, they compelled to resign the NCC duty, she did not agree for it and she attended SCC spot valuation without even relieving order given by them and after return from the SCC spot valuation duty, on 16.04.2017 she attended to the school for duties the NCC rooms was kept under lock and key without even issuing clothes of cadets and concealed the key and when she asked HM Vijaya Kumari and HM Mariyamma for the key, they stated the keys are with Jayaraju and asked her to go and take. She went to Jayaraju to take the keys, he caught hold of her hand, she out of fear wriggled out her hand from his hold and informed the same to Mariyamma and Vijaya Kumari about the fact, they stated if at all she want keys she has to go to him and take. She stated further that their indication is to oblize Jayaraju for sexual intercourse. When she went for the keys Jayaraju was alone. On 16.04.2017 after she went to the spot valuation and

returned this was happened. It is further stated that on the school last working day 22.04.2017 for the NCC camp documents school children are going for summer vacation and for NCC cadet clothes she went to Mariamma and Vijaya Kumari and asked, they uttered words by abusing her as Nasty teacher, street lady, lanza, yenni saarlu cheppina Siggula and harassing her physically, psychological to suffer. In this regard on 22.04.2017 she went to Chilakalapudi PS and submitted a written complaint to the police, the police did not register FIR. Again on 22.05.2017 she went to ASP, Chilakalapudi and presented a report that was also not registered and ASP referred the case to women PS and the DSP there stated that it is only concerned with family disputes and not registered the crime on her report. Ultimately on 06.11.2017 she approached the SP and submitted written report by complainant of injustice done to her earlier even reported to police and thereby for the past 6 years as the accused persons are harassing along with others and also threatening and creating panic including fear of doing away by following on car or bike hence to take action and they are also threatening of transferring her. The statement of the defacto complainant is in tune to it during investigation of the crime registered supra among 14 witnesses cited in the charge sheet besides the defacto complainant supra the statements of other out of LWs.2 to 12 unofficial witnesses and same connected with the school or

some what with different version contrary to it and Page 42 of the material papers shows report submitted by DSP to the Mahila PS, Machilipatnam to the SP he stated in Para 3 onwards on secured both parties and advised them not to trouble and to maintain good atmosphere and the respondents agreed and not chosen to create any trouble to the petitioner and both parties agreed for that and the Deputy General Manager, RCM Schools, Krishna also conducted enquiry in the matter and there was a compromise between the parties for not to give trouble one to the others and if at all there is future trouble and there was suggested to the DEO or church authorities and thereby the complaint of her can be lodged.

3. Learned counsel for the petitioners reiterated the same in seeking to quash the CC proceedings.

4. The learned counsel for the 2nd respondent-defacto complainant submitted that from the statements of the defacto complainant in registration of the crime including during investigation there is prima facie accusation of the ill-treatment and harassment including criminal intimidation and outraged the modesty by said Jayaraju and abetted by HM Vijaya Kumari and HM Mariyamma among A1 to A3 besides role of A.4-B.Syam and thereby learned Magistrate rightly applied his mind and taken cognizance and issued summons to secure the presence of accused and for this Court while sitting in this matter there is nothing to interfere

and sought for dismissal of the petition. Learned Public Prosecutor representing the 1st respondent-State also represented the same.

5. Heard both sides and perused the material on record.

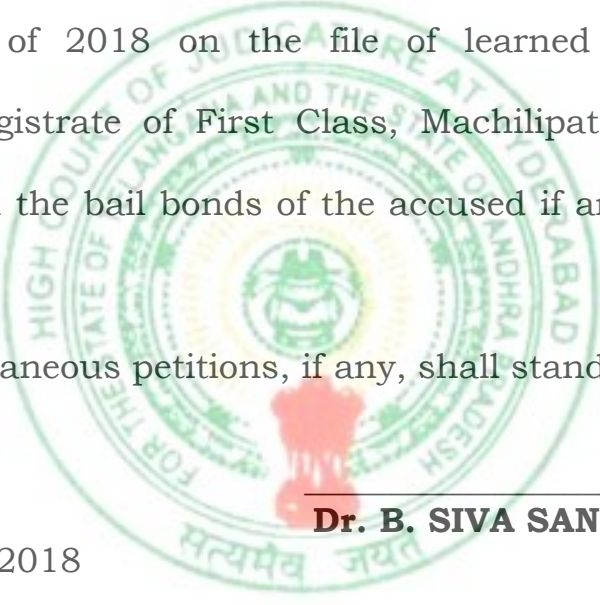
6. A perusal of the very report of the defacto complainant including her statements during investigation speaks only once A.3 caught hold of her hand and she riggled out and there is nothing to say it was with intent to outrage her modesty and there are no any averments of any physical contact or advances involving unwelcome and explicit sexual overtures like sign or gestures etc., even to attract the offence under Section 354A(1)(i) IPC which is a pre-requisite to attract the offence for which the cognizance taken by the learned Magistrate and so far as criminal intimidation concerned, there are no any specific antecedents, but for generally saying for the past 6 months they were harassing and creating panic as to what incident happened on what date specifically to attract the offence under Section 506 IPC defined under Section 503 IPC whereunder there must be alarm to the person from the acts caused with intent to create such alarm by criminal intimidation. Once that is lacking of there is no attracting of the offence under Section 506 IPC also on the face value even taken true of the only statement of the defacto complainant in her report and during investigation leave about a contrary version of the other witnesses to her said version. Leave apart the belated report

of the occurrence of April 2017 in November 2017. Leave apart for the earlier report given to the ASP referred to Mahila PS and an enquiry conducted and report submitted that is referred supra.

7. Having regard to the above, there is no sustainable accusation to continue the cognizance proceedings of the learned Magistrate against any of the petitioners.

8. Accordingly and in the result, this Criminal Petition is allowed by quashing the proceedings against the accused in C.C.No.699 of 2018 on the file of learned II Additional Judicial Magistrate of First Class, Machilipatnam, Krishna District, 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: 22.11.2018
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