

HONOURABLE Dr.JUSTICE B. SIVA SANKARA RAO

Criminal Petition No.11841 of 2018

ORDER:

The petitioners are A.2 and A.3 in Cr.No.242 of 2018 Dargamitta Police Station of SPSR Nellore District, dt.13.09.2018 registered for the offences punishable under Sections 498-A and 324 read with 34 IPC against 3 accused including the petitioners-A.2 and A.3 besides the dead person Uma Maheshwara Prasad, as A.1 who died long prior to the very report undisputedly, while working in the District Sports Organization as Office Subordinate. The two accused are brother and sister to the A.1. The 2nd respondent is the defacto-complainant.

2. The contents of the report in registration of the First Information Report are that 28 years back, she married one N.Prakash Raj of Rajupalem and after one year of marital life, due to disputes arose between them, they were residing separately and she filed a maintenance case seeking maintenance and she had a male child in their wedlock and she worked in a private college. It was while so, in 1995 she developed acquaintance with Uma Maheshwara Prasad. She also took divorce from her 1st husband. It is averred that Uma Maheshwara Prasad- the deceased who also left her company by beating her. It was while so, on 23rd April of said Uma Maheshwara Prasad and his brother Kosal Ram- A.2 came to her and altercated and she heard the phone conversation of them with their sister Girijakumari-A.3-wife of M.Adinarayana of Venkatagiri town, Nellore District, what she heard is they told to A.3 that the defacto-complainant is alone and no problem and near to him and again A.3 phoned and stated not to come to her and be outside and she will take care of everything and then her husband caught hold of her and his brother injected something to her left shoulder and they left. 4 days later her husband told her that he would come with stadium

Subbaiah and other elders. She stated that already there is a case in Cr.No.210 of 2018 in Women Police Station to attend by her. 10 days later stadium Subbaiah telephoned to her and said that her husband Uma Maheshwaramma died at Kavili. On that she went there and performed obsequies for the relatives of her husband Uma Maheshwara Prasad, who came there and saw the deadbody, stated that they have no connection with him. Later she fell sick and when cause blood tested in Vijaya Mahal Gate area, it found she got HIV positive and what the medicine administered through injection is the same according to her. She stated that she took 4 tablets on the previous night due to this mental agony. Early in the morning of 13.09.2018, her son came and took her for treatment to ACSR Government hospital where she stated to police above things.

3. Heard the learned counsel for the petitioners and the learned Public Prosecutor for the 1st respondent-State who opposed the petition averments and the learned counsel for the 2nd respondent-defacto-complainant and perused the material on record.

4. Even from the face value of the averments, A.3, who is sister of Uma Maheshwara Prasad-A.1 since died, is not at all in the picture and that too she is of different town and married housewoman. It is not even her case of there is any role of A.3 including from any phone conversation of A.2 with her or direct attack by words or acts by the A.3 against her. Registration of the crime against the A.3 u/ sec.324 IPC therefrom is without basis of not a case of causing any hurt. There is no any marital relationship for her saying she married Uma Maheshwaara Prasad in 2004. No record even filed to that effect. She did not even state that she gave divorce to her 1st husband Prakashraj who left from the home even according to her. It is not even a case with any specific

allegation of what was the alleged medicine administered by her late husband with the help of A.2 in injecting her to know if contains of any virus but for on suspicion, not immediately after the injection, conducted any blood test but about 5 months thereafter when allegedly found she got HIV positive. She did not even file any such report. In fact, besides the belated report on 13.09.2018 for the alleged administering of injection by her late husband and A.2 on 23.04.2018 about 5 months later, there is in fact after death of Uma Maheshwara Prasad, there was a claim by A.2 in the name of the minor girl Lalitha Sri Karthika aged 1½ years as sole legal heir of the deceased no other than daughter of A.2 and the defacto complainant also made claim on knowing it as if wife of late Uma Mahashwara Prasad-A.1 and there was a proceeding of the Chief Executive Officer, District Sports Authority which was dated 16.07.2018 of the rival claims require enquiry and to participate in enquiry before State Sports Authority at Vijayawada, and the matter being referred to them for enquiry and if they are summoned to appear. It is long subsequent to that and after receiving of notices, this report given shows something behind it with oblique motive because of rival claim to the death benefits of late Uma Maheshwara Prasad by his brother through his daughter opposite to the claim of the defacto-complainant as if wife of late Uma Maheshwara Prasad.

5. Having regard to the above, there is no basis for registration of the crime by police from the belated First Information Report and from the disputes relating to the death benefits of Uma Maheshwara Prasad-A.1 who died while in service and predominantly civil in nature apart from belated First Information Report without even basis.

6. In the result, the Criminal Petition is allowed by quashing the proceedings against the petitioners/ A.2 and A.3 in Cr.No.242 of 2018 of

Dargamitta Police Station of SPSR Nellore District and they are acquitted. The bail bonds of the petitioners/ A.2 and A.3 shall stand cancelled. Consequently, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

Date:14.12.2018
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Dr. JUSTICE B. SIVA SANKARA RAO

