

THE HONOURABLE Dr.JUSTICE B. SIVA SANKARA RAO

Writ Petition No.40546 of 2018

ORDER :

The petitioner-Sreedharala Srinivasa Satyanarayana, filed this Writ Petition with the prayer against 5 respondents viz; 1) State of Telangana rep.by its Principal Secretary, Home Department, 2) The Station House Officer, Chaitanyapuri Police Station, Hyderabad, 3) the State of Telangana rep. by its Principal Secretary, Medical & Health Department, 4) the Director of Medical Education Medical & Health Department, Hyderabad and the unofficial 5th respondent-defacto-complainant -V.Bhagyalaxmi, as follows:-

“ to issue a Writ or order more particularly one in the nature of writ of Mandamus, declaring the action of the 2nd respondent in registering crime FIR No.619 of 2018,dated 27.10.2018 under Sec.376 IPC on a complaint made by the 5th respondent herein with a malafide intention as a counter blast to a complaint made by me dated 27.10.2018 registered as Cr.No.618 of 2018, registered under Section 341,342,427 and 506 read with 34 IPC, as illegal, arbitrary, malafide and without jurisdiction and quash the same and pass such other order or orders as may deem fit and proper in the circumstances of the case.”

2. Heard the learned counsel for the petitioner and the learned Govt.Pleader for Medical & Health and Home respectively for respondents 2 to 4 and also taken as heard the 5th respondent-defacto-complainant since track record shows notice served.

3. The petitioner is the sole accused in Cr.No.619 of 2018 dt.27.10.2018 registered for the offence under Section 376 IPC by the Station House Officer, Chaitanyapuri Police Station-2nd respondent on the complaint of the 5th respondent-defacto-complainant, received at 23.50 hours on 27.10.2018 for the alleged occurrence happened on that day at about 7.00 P.M, within 2kms west to the police station from Clause No.5 of the reading of the First Information Report supra that on that day she along with her husband went to Sanjeevani Poly Clinic

(private Clinic) run by the petitioner for health check up and she and her husband went inside to meet the doctor (petitioner/ accused), the doctor asked her husband to go out and bolted from inside and threatened her and made her nude and touched her private parts and took her breast in his mouth and kept it so and even she was rising cries he did not leave her while holding her for about 30 minutes in the same room in such a situation not even allowing her to open the doors by saying if it is continued, she could be cured and also threatened thereafter of if she informed to anybody, he would kill by administering injunction and even her husband was knocking the doors he did not allow to open therefrom he behaved indecently, later she came out and informed what all happened and fell down there.

4. Importantly, the Cr.No.618 of 2018 on even date registered at 9.00 P.M., on the report of the petitioner/accused as complaining against the defacto-complainant and others.

5. The sum and substance of the accusation therein shows that one Bhagyalakshmi w/o of Janardhan Reddy has been coming to Clinic for treatment for TB of Dorsal Spine since August, 2017 and visiting hospital for the last two months for review. Accordingly and consequently on 27.10.2018 at about 7.00p.m. she complained about vomiting, pain in abdomen and backache for which he advised blood test and MRI of Dorsal Spine. Her husband and herself bargained for payment to give concession which he could not for Rs.3000/- already given the concession therefrom even chosen to argue with him by unheeding his explaining the same and both of them gone out of the consultation room and subsequently her husband came with many people and beaten him without any instrument initially and after that both of his mobile phones were stolen and total property is damaged about two lakhs. It is

registered as Cr.No.619 of 2018 supra by 11.30p.m. for the offences under Sections 341,324, 427 and 506 read with 34 IPC.

6. It is the submission of the learned counsel for the petitioner that the said report under Section 376 IPC with artificial averments and grave allegations is hardly believable by any prudent man by drawing attention to a bird's view of the same as counteblast to the earlier crime of ransacking committed by the defacto-complainant and her husband herein in beating the petitioner and causing damage to the property of the hospital. It is also his submission that there is influence from their side under the guise of the same to see that to suspend the petitioner from the duties as he is working as Professor, General Surgeon and Neurosurgeon, Osmania Medical College and Osmania Hospital besides running a private Clinic supra.

7. The learned Public Prosecutor submitted that there is nothing to quash the First Information Report Proceedings from prima facie there is accusation to attract the offences and truth or otherwise is a matter of investigation is also the submission of the learned Govt. Pleader for Medical and Health and Home.

8. Once such is the case as the face value of the First Information Report alone to be basically considered though per se false accusation itself is also a ground to prevent abuse of process or to subserve the ends of justice as the power is to exercise sparingly under Section 482 CrPC or under Article 226 of the Constitution of India. Whereas, it is a matter for investigation though there is some force in the submission of the learned counsel for the writ petitioner that a perusal of the allegations to a naked eye and even from bird's view is a false accusation and wild allegations are engineered to create cause which are hardly believable. Once to quash the First Information Report, only the face value of allegations to be considered for truth will come out only

after full-fledged and fair investigation, any taking of disciplinary action against the petitioner by the R.3 and R.4 authorities is thus only after police final report and not based on the FIR averments alone.

9. Having regard to the above and with these observations, the Writ Petition is disposed of. Miscellaneous petitions, if any, pending shall stand closed.

Dr. B.SIVA SANKARA RAO J,

Date:15.11.2018

Note: Issue copy forthwith.
b/ o.
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