

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 11820 OF 2017

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure to quash the proceedings in C.C.No. 245 of 2017 on the file of the Court of XXIV Metropolitan Magistrate, Kukatpally at Miyapur, Cyberabad (for short, 'the Court below'), registered for the offences punishable under Sections 420, 406 and 506 of IPC which is the subject matter of crime No. 55 of 2017 of Balanagar Police Station, Medchal District.

2. Respondent No. 1 filed a private complaint on 06-02-2017 against the petitioner for the offences punishable under Sections 420, 406 and 506 of IPC and the same was referred to police by exercising power under Section 156 (3) of Cr.P.C. After conducting necessary investigation, the police filed charge sheet and the same was registered as C.C.No. 245 of 2017 on the file of the Court below and subsequently, the same was transferred to the file of the Court of IX Metropolitan Magistrate, Cyberabad, Kukatpally, and renumbered as C.C.No. 1467 of 2017.

3. The main ground raised before this Court in the present petition is that respondent No. 1 earlier filed complaint in C.C.No. 938 of 2016 on the file of the Court below against the petitioner herein and after full-fledged trial, the Court below found the petitioner not guilty for the offences punishable under Sections 417 and 354 (D) (1) (ii) of IPC and accordingly acquitted under Section 248 (1) of Cr.P.C. As the petitioner was already acquitted for the above offences, for the same incident that allegedly took place on 24-08-2016 at about 10 hours, filing of second complaint and filing charge sheet is nothing but an abuse of process of the Court and therefore requested this Court to quash the proceedings.

4. At the hearing, learned counsel for the petitioner has drawn the attention of this Court to the judgment dated 17-01-2017 in C.C.No. 938 of 2016 registered on the complaint made by respondent No. 1, wherein she was examined as P.W.1 but turned hostile and therefore the Court below found the petitioner not guilty. The date of incident in the earlier complaint and in the present case is one and the same. In the charge sheet filed in the present case, there is a reference about acquittal of the petitioner in C.C.No. 938 of 2016. Respondent No. 1 again filed the present complaint for the same incident and the police investigated into and filed charge sheet arriving at a conclusion that the petitioner made a promise during pendency of C.C.No. 938 of 2016 and therefore respondent No. 1 turned hostile believing the promise but the petitioner went back.

5. As seen from the material on record, there is absolutely no reason to the contention of respondent No. 1 that she turned hostile due to the promise made by the petitioner of marrying her during pendency of C.C.No. 938 of 2016. In the statements recorded by the police during investigation, there was a reference about the request made by the petitioner to respondent No. 1 to withdraw the case promising her to marry. Believing the promise made by the petitioner, respondent No. 1 turned hostile and consequently the case was ended in acquittal. After closure of the case, respondent No. 1 went to the petitioner and demanded him to marry her, for which the latter abused and threatened to kill the former. The incident in the present case is subsequent to the disposal of C.C.No. 938 of 2016 and the allegations made in the earlier case and the present case are identical except the incident of the petitioner abusing respondent No. 1 in filthy language while threatening to kill her. Thus, the incident, at best, may constitute the offence punishable under Section 506 of IPC

but not the offences punishable under Sections 420 and 406 of IPC. When the petitioner was found not guilty in the earlier case, he cannot be prosecuted for the same incident by filing a separate complaint which amounts to double jeopardy and the same is barred under Section 300 (1) of Cr.P.C.

6. The criminal petition is accordingly partly allowed quashing the proceedings against the petitioner in C.C.No. 1467 of 2017 on the file of the Court of IX Metropolitan Magistrate, Cyberabad, Kukatpally, for the offences punishable under Sections 420 and 406 of IPC while permitting the Court to proceed with trial against the petitioner for the offence punishable under Section 506 of IPC. Pending miscellaneous petitions, if any, in this criminal petition shall stand closed in consequence.

Date: 04-07-2018.
JSK

M.SATYANARAYANA MURTHY, J.

