

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No. 5769 of 2019

ORDER:

1. This Criminal Petition is filed under Section 482 Cr.P.C. seeking quashing of the proceedings in P.R.C.No.34 of 2019 on the file of the III Additional Judicial First Class Magistrate at Kothagudem.

2. A charge sheet came to be filed against the petitioner/accused No.1 and another for the offences punishable under Section 370 (A) I.P.C. and Sections 3 and 4 of the Immoral Traffic (Prevention) Act (for short "the Act"), with an allegation that on the instructions of S.D.P.O., Kothagudem, on 25.06.2019 the Sub-Inspector of Police, Kothagudem III Town along with his staff went to the house of accused No.2 situated at Coolie Line, Kothagudem, where he found accused No.1 along with the victim (LW.3) making chit chat by sitting inside the house of accused No.2. On enquiry, accused No.1 confessed that he is bringing different women to the said house frequently to fulfil his sexual desire. As and when he comes to the house, accused No.2 will go out of the house and he used to spend with the women whom he brought to the house, for which he will pay an amount of Rs.1,000/- per day to accused No.2. On that day he brought the victim (LW.3) to the house of accused No.2. After following the procedure prescribed, the police registered a case in Crime No.69 of 2019 for the offences punishable

under Section 370(A) I.P.C. and Sections 3 and 4 of the Act. After completing the investigation, the police filed charge sheet against the accused, which was taken cognizance as P.R.C.No.34 of 2019.

3. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the respondents.

4. Learned counsel for the petitioner/accused No.1 submits that the second respondent has foisted a false case against the petitioner/accused No.1. It is further submitted that as seen from the allegations and averments of the charge sheet the second respondent admitted that the petitioner and the victim have not participated in the sexual intercourse as such no offence more particularly under Section 370(A) of I.P.C., and Sections 3 and 4 of the Act have been made out against the petitioner. It is also submitted that the police did not follow the procedure laid down in Cr.P.C. in registering the crime and filing the charge sheet. It is further submitted that the colleague employees foisted false case against him due to rivalry between teachers unions.

5. Learned Additional Public Prosecutor opposed the petition contending that the statement of LW.3 shows that often the petitioner has taken her to the house of accused No.2, where they spent time, for which the petitioner paid an amount of Rs.1,000/- to accused No.2. The statements of LWs.5 and 6 also show that on the

date of incident the petitioner was on half day leave whereas LW.3 was on casual leave and prayed to dismiss the petition.

6. All the contentions raised by the learned Counsel for the petitioner relate to disputed questions of fact. The Court has also been called upon to adjudge the testimonial worth of the prosecution evidence and evaluate the same on the basis of various intricacies of factual details which have been touched upon by the learned Counsel for the petitioner. The veracity and credibility of material furnished on behalf of the prosecution has been questioned and false implication has been pleaded.

7. The law regarding sufficiency of material which may justify the summoning of the accused and also the Court's decisions to proceed against him in a given case is well settled. The Court has to eschew itself from embarking upon a roving enquiry into the last details of the case. It is also not advisable to adjudge whether the case shall ultimately end in conviction or not. Only a *prima facie* satisfaction of the Court about the existence of sufficient ground to proceed in the matter is required.

8. Through catena of decisions given by the Hon'ble Apex Court, this legal aspect has been expatiated upon at length and the law that has evolved over a period of several decades is too well settled. The cases of *Chandra Deo Singh v. Prokash Chandra Bose*¹;

¹ AIR 1963 SC 1430

*Vadilal Panchal v. Dattatreya Dulaji Ghadigaonker*² and *Smt. Nagawwa v. Veeranna Shivalingappa Konjalgi*³ may be usefully referred to in this regard.

9. The cases where the allegations made against the accused or the evidence collected by the investigating officer do not constitute any offence or where the allegations are absurd or extremely improbable or impossible to believe or where the prosecution is legally barred or where the criminal proceeding is malicious and *mala fide*, instituted with an ulterior motive of grudge and vengeance alone may be fit cases for the High Court in which the criminal proceedings may be quashed. The Hon'ble Apex Court in *State of Haryana v. Bhajan Lal*⁴ has recognized certain categories in which Section 482 Cr.P.C. or Article 226 of the Constitution of India may be successfully invoked.

10. In view of the settled principles of the above case laws, this Court has adverted to the entire case record. The submissions made by the learned counsel for the petitioner call for adjudication on pure questions of fact which may be adequately adjudicated upon only by the trial Court and while doing so, even the submissions made on points of law can also be more appropriately gone into by the trial Court in this case. This Court does not deem it proper, and

² AIR 1960 SC 1113

³ (1976) 3 SCC 736

⁴ (1992) SCC (Cr.) 426

therefore cannot be persuaded to have a pre-trial before the actual trial begins.

11. It shall suffice to observe that the perusal of the F.I.R. and the material collected by the investigating officer on the basis of which charge sheet has been submitted makes out a *prima facie* case against the petitioner at this stage and there appears to be sufficient ground for proceeding against him. I do not find any justification to quash the charge sheet or the proceedings initiated against the petitioner as the case does not fall in any of the categories recognized by the Apex Court which may justify their quashing. Hence, the prayer for quashing the proceedings in P.R.C. No.34 of 2019 on the file of the III Additional Judicial First Class Magistrate at Kothagudem, is refused.

12. Accordingly the Criminal Petition is dismissed. As a sequel thereto, Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

JUSTICE G. SRI DEVI

30.09.2019
gkv/Gsn



