

HONOURABLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION Nos.573 & 748 of 2016

COMMON ORDER:

The petitioners are accused Nos.2 & 4 to 6 respectively in CC.No.937 of 2015 on the file of learned IX Metropolitan Magistrate, Kukatpally at Miyapur, which is outcome of the private complaint of the 2nd respondent-defacto complainant dated 25.05.2015 that was referred to police for investigation by the learned Magistrate under Section 156(3) Cr.P.C. from which the police registered the crime No.346 of 2015 dated 01.06.2015 for the offences punishable under Sections 420, 406 & 506 IPC and from the investigation the police filed final report in the form of charge sheet that was taken cognizance by the learned Magistrate for the offences supra against in all 6 accused including the respective petitioners accused Nos.2, 4 to 6. It is the same under impugment in both the quash petitions.

2. Heard learned counsel for the petitioners respectively and learned Public Prosecutor representing the 1st respondent-State. The notice sent to the 2nd respondent refused is a sufficient service, hence taken as heard and perused the material on record.

3. The contentions in the quash petition vis-à-vis oral submissions in the course of hearing by the learned counsel for the petitioners are that the private complaint of the defacto complainant stating her marriage was performed with A1 on 26.03.2014 at HMT Community Hall at Miyapur through elders later she joined A1 and while living at Miyapur, that prior to the marriage A1 and A2 came to see the defacto complainant made a false representation as if A.1 is a graduate and did hotel

management and working presently in IPAY India Tech Private Limited, Nagarjuna Hills, Panjagutta, Hyderabad, as MIS Coordinator which she believed in accepting the marriage proposal that was performed, however after marriage she came to know A1 did not even complete his graduation when she questioned he replied as lied for the sake of marriage and he also ill-treated her whenever questioned him and in second week of July 2014 A1 left her company with gold ornaments and without informed her and remained out of her contact and when she went to her in laws on many occasions to enquire about him she was necked out and prior to that she filed 2 cases one is DVC.No.6 of 2015 under Sections 18, 20 & 22 of DVC Act on 06.02.2015 itself against her husband and other relatives among the petitioners and also filed for the offence under Section 498-A IPC and Sections 3 & 4 of DP Act report with Miyapur police that was also registered as crime No.793 of 2014 covered by CC.No719 of 2015 pending before the learned Metropolitan Magistrate, Miyapur, and it is a false implication to settle the personal scores with her husband, the other accused also though they are innocent leave apart A4 to A6 never lived at Adoni in the company of defacto complainant and A1 and the defacto complainant and her parents never approached him for any marriage proposal nor they issued anything and entire allegations are as vague as anything and police did not properly investigated and as there is no sustainable accusation and the proceedings are with ill-will by abusing the process, same are liable to be quashed and so far as A2 the contest is apart from the above in further that the allegations are bald and vague and

nothing but false to rope them thereby they sought for quashing of the proceedings of CC supra.

4. The learned Public Prosecutor opposed saying the learned Magistrate rightly taken cognizance for investigation, nothing to interfere but for left open any defence in trial.

5. The private complaint averments reproduced in nutshell no way requires repetition. Therefrom what all allegations of the defacto complainant against A1 and A2 is prior to the marriage between the defacto complainant and A1, they both of whom A2 is cousin of A1 stated A.1 is a graduate and did hotel management and made her to believe to marry A1. From this she came to know with no lapse of time after marriage the said fraudulent representation if any for the marriage was performed on 26.03.2014 itself. Once such is the case, there is nothing for her to wait in filing the private complaint in the end of May 2015. Even from the enclosures to the private complaint besides wedding invitation and marriage photos what she filed is the Whatsapp messages and Facebook text messages and the profile on matrimonial website and there is nothing to show anything sent from A2 or from the email ID of A2 or from the device of A2. So far as the A2 is concerned, the only allegation of came along with A1 and make believe in his presence by A1 of the defacto complainant of he is a graduate of hotel management etc., facts, that by itself will not rope A2 a student of NIT Warangal in the absence of something to show his active role as party to the fraud and deception in arranging the marriage intentionally to cheat the defacto complainant by privy with A1, leave about the unexplained delay after marriage dated 26.03.2014 and there are no date or

time of even when they came and where they came that is A.2 along with A1 in making of the representations specifically by A2. Leave it as it is of pre marital so called role of A2 along with A1 in making such representations for which no offence made out as discussed supra, coming to the post marriage life of defacto complainant with A1 and any role of accused. In the private complaint registered as FIR from Para 5 onwards main accusation is against A1 who allegedly confessed before her by saying he make believed with false representation of graduate and working for the sake of marriage though actually discontinued his degree and with no employment. What she stated further all accused especially A2 to deceive her by making fake matrimonial advertisement on Telugu matrimony and it is not even his case that information in the website was uploaded by A2 or on the information of A2 uploaded to make A2 liable. What it is further stated is after marriage after a short period of marital life A1 left company of defacto complainant in the second week of July 2014 along with valuables taken from the house and even she tried to contact he is out of reach and A2 to A6 even know whereabouts of A1 refused to give any information of him that itself may not be an offence. What she further stated is they misbehaved with her and she did not even stated any date or time or place and what actual occurrence that took place to give any credence against A2 to A6. What she further stated is she came to know of A1 living with A2 at Warangal and went there but A2 from that day one supporting A1 cheated her. It is not even her case that she found A1 in the company of A2 a student at NIT Warangal and if so on what date and why she did not even choose to give the complaint immediately

for his providing any shelter to A1 if at all it is an offence. What further stated is many a time she went to Kurnool to in-laws house and all the time they necked her out and when she enquired whereabouts of A1, A3 to A5 also kept silence that will not constitute an offence either under Section 420 or 406 or 506 IPC against A3 to A6 in particular for no any sustainable accusation against them so also A2 from what is discussed supra for the police to final report filed therefrom after investigation and the learned Magistrate to take cognizance and even her statement during investigation no way improves to the above. Leave it as it is, she filed DVC case and also case under Section 498-A IPC long prior to her above referred private complaint dated 25.05.2015, Section 498-A IPC report of crime No.793 of 2014 dated 20.11.2014 and DVC case of February 2015 where there are no any sustainable accusation against any breach of trust or criminal intimidation against A4 to A6 in particular and even against A2 with any substance beyond what is if at all discussed supra.

6. Having regard to the above, the continuation of proceedings is nothing but abuse of process.

7. Accordingly and in the result, both the Criminal Petitions are allowed by quashing the proceedings against accused Nos.2 & 4 to 6 in CC.No.937 of 2015 on the file of learned IX Metropolitan Magistrate, Kukatpally at Miyapur.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 22.02.2019
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