HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.7844 of 2017

ORDER:

1. The petitioner, who is the sole accused in C.C.No.931 of 2015 on the file of the IX Additional Chief Metropolitan Magistrate, Hyderabad, filed this Criminal Petition under Section 482 Cr.P.C. to quash the proceedings initiated against him in the above C.C.

2. The brief facts of the case are that the 1st respondent herein filed a private complaint against the petitioner/accused for the offences punishable under Sections 420 and 493 of I.P.C. before the IX Additional Chief Metropolitan Magistrate, Hyderabad, who referred the same to the police, Narayanaguda Police Station, Hyderabad, under Section 156 (3) of Cr.P.C., for investigation and report. The police registered a case in Crime No.386 of 2014 of Narayanaguda Police Station against the petitioner/accused under the aforesaid Sections of law. After due investigation, the police filed a charge sheet against the petitioner/accused, which was taken cognizance as C.C.No.931 of 2015 and the same is pending on the file of the IX Additional Chief Metropolitan Magistrate at Hyderabad.

3. The allegations in the charge sheet are that the 1st respondent/*de facto* complainant is residing at Hi-Tech City, Hyderabad, along with her family members. The petitioner/ accused has completed his Doctorate in Management; joined as Commercial Tax Officer and retired as Joint Commissioner in the

year 2007. Apart from the job, in the year 1998, the petitioner/accused established a travel agency under the name and style of M/s. Garuda Travels and Tours at Hyderguda, Hyderabad, by appointing his wife as one of the Directors of the above travel agency and he was looking after the day-to-day business after attending his official duties. In the year 1998, the petitioner/accused trapped the 1st respondent, who was working in Hotel Green Park, Greenland, Begumpet, through one of the Directors of his travel agency by name Smt. Rajeshwari Naik and offered her to join in his travel agency along with her sister Ms. Bhanusri as Directors and also offered them to pay handful salary of Rs.10,000/- each apart from 50% share in the profits of the travel agency. When they refused to accept the offer, the petitioner/accused visited their house, convinced their parents, made them to accept the offer and inducted them as Directors in his travel agency on 25.01.1999. The 1st respondent/complainant and her sister worked hardly and developed the travel agency of the petitioner/accused and that the petitioner earned lakhs of rupees and he kept on luring the 1st respondent and her sister to give them handful profits and made them to depend on him totally. It is also alleged that since from the inception as Director, the petitioner/accused kept an evil eye over the 1st respondent in order to fulfill his sexual desire over her, as such the petitioner/accused developed intimacy with her and as per his plan, he started dropping her in her house regularly for some months, lured her to provide all amenities and to give her handful amount and to take care of her as well as her family members and finally proposed to marry her. The petitioner/accused used to take her to sailing club and costly hotels for having dinner. Later on, the 1st respondent/complainant shifted her residence from Begumpet to Hyderguda and the petitioner/accused used to visit her house regularly and arranged all the household articles in her house in order to impress her. Thereafter, on the fateful day, the petitioner/accused went to the house of the 1st respondent/complainant, while her sister Bhanusri was in the office, and taking advantage of her loneliness, the petitioner/accused promised to marry her and had sexual intercourse with her forcibly in spite of her resistance. After that the petitioner/accused continued the sexual relationship with the 1st respondent several times and the petitioner/accused took her to all historical places around India as well as Abroad, made her to stay in costly hotels and enjoyed her sexually on the false promise of marriage. As and when the 1st respondent insisted for marriage, the petitioner/accused used to postpone the issue on one pretext or the other reasons. During the years 2000 to 2005, the petitioner/accused took the 1st respondent to various places such as Vijayawada, Yadagirigutta, Delhi Lotus Temple, TTD Devasthanam, Sanghi Temple, Mahabalipuram, Kanchi Kamakshi Temple, Madhurai Meenakshi Temple, Iskon Temple in Bangalore, but he did not marry her intentionally and used her for fulfilling his sexual desire on the false promise of marriage. It is also alleged that during the month of September, 2010, the petitioner/accused induced the 1st respondent and got her open plot measuring about 500 square yards situated at Poddutur, Shankarapally, Ranga Reddy District, transferred in his name, making her to believe that he will pay the amount, but he did not pay the same. Later on, when the 1st respondent pressurized for marriage, he bluntly refused and evaded to meet her on one pretext or the other.

4. Notice sent to the 1st respondent/complainant returned un-served as the 1st respondent refused to receive the same. Hence, heard the learned Counsel for the petitioner/accused and learned Additional Public Prosecutor, appearing for the 2nd respondent/State.

5. It has been submitted on behalf of the petitioner/accused that he is innocent of the offences alleged against him and has been falsely implicated in the case. It is further submitted that the petitioner/accused has completed his Doctorate in Management; joined as Commercial Tax Officer in the year 1987 and retired as Joint Commissioner in the year 2007 and that he worked as an Ombudsman to Government of India. It is also submitted that there are existing civil disputes between the petitioner and the 1st respondent and her sister and hence, they have implicated the petitioner in the present case. It is also submitted that all the allegations that have been made as against the petitioner pertain to the years 1998 to 2010. The 1st respondent, who is an educated lady

and also a Director of the company, would have given a complaint in the year 1998 itself, if the allegations are true. It is further submitted that during the year 2010, the 1st respondent and her sister sold 500 square yards of land each along with building situated at Pragathi Resorts, Shankarpally, to the petitioner/accused. It is also submitted that after selling the said property to the petitioner/accused, the 1st respondent and her sister sold the said land to one M/s. Bunny Akaash Travels and Tours Private Limited, represented by its Managing Director, by way of an un-registered sale deed, without the knowledge of the petitioner. Thereafter, M/s. Bunny Akash Travels filed O.S.No.750 of 2011 before the II Additional District Judge, Ranga Reddy District, for specific performance of agreement of sale. During the month of August, 2012, a collusive decree was obtained and the property got registered through Court on 22.03.2014 in E.P.No.13 of 2013. After coming to know about the said decree, the petitioner/accused filed O.S.No.833 of 2014 and obtained injunction order. On coming to know about the filing of the suit by the petitioner/accused, the 1st respondent filed a private complaint with all false allegations. The sister of the 1st respondent also filed a report on 27.10.2014 against the petitioner/accused and his family members, which was registered as Crime No.278 of 2014 of C.C.S, Hyderabad, for the offences punishable under Sections 120-B, 420 and 506 I.P.C. After due investigation, the police filed final report in the above crime referring the case as “lack of evidence”. Thereafter, the sister of the

1st respondent also gave another report which was registered as Crime No.332 of 2014, for the offences punishable under Sections 376, 354 (A), 420 and 506 I.P.C. It is also submitted that the 1st respondent and her sister are involved in 25 criminal cases filed by different persons at different places. They also filed W.P.No.24449 of 2015 seeking to include the police officials therein in the aforesaid criminal cases basing on the representation dated 23.05.2012 made by them. By an order, dated 02.11.2015, this Court dismissed the said Writ Petition as the petitioners therein i.e., 1st respondent herein and her sister, are only seeking to settle their private issues with unofficial respondents by attempting to get them included in various pending crimes in which they are not even the complainants. Thus, it clearly establishes the intention of the 1st respondent to implicate the petitioner/accused in false cases with a view to extract money. It is further submitted that one Vijay Singh, Inspector of Police, CCS, Hyderabad, was the Investigating Officer in Crime No.278 of 2014 and Crime No.332 of 2014, wherein the petitioner herein was arrested and remanded to judicial custody. After his release, the petitioner gave a report to the Commissioner of Police, Hyderabad, against the said Inspector of Police, who ordered enquiry and basing upon the enquiry report, the said Inspector of Police, was suspended. The petitioner also made a complaint before the Andhra Pradesh Human Rights Commission, Hyderabad, wherein, the D.C.P., C.C.S., DD, Hyderabad, were directed to file a report with regard to the allegations made against the Investigating

Officer. In the said report, it has been clearly stated that the Inspector of Police, Vijay Singh, took an active part in bringing the family members of the petitioner/accused in the false cases. It is also submitted that the petitioner/accused never lured the 1st respondent by way of promises as alleged in the complaint. Even according to the complaint, the 1st respondent was aware of the marriage of the petitioner/accused with one Shyamala and it is subsistence. It is also submitted that continuation of proceedings against the petitioner/accused is nothing but an abuse of process of law.

6. Learned Additional Public Prosecutor would submit that the truth or otherwise of the allegations can be gone into at the time of trial since the allegations in the charge sheet *prima facie* attracts the offences under Sections 420 and 493 of I.P.C. against the petitioner/accused.

7. All the contentions raised by the learned Counsel for the petitioner/accused 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.

8. 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.

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

10. 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

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[1] AIR 1963 SC 1430
[2] AIR 1960 SC 1113
[3] (1976) 3 SCC 736

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.

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

12. 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 C.C.No.931 of 2015 on the file of the IX Additional Chief Metropolitan Magistrate, Hyderabad, is refused.

[4] (1992) SCC (Cr.) 426

13. 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

05.11.2019
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