

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO**CRIMINAL PETITION No.12910 of 2018****ORDER:**

Notice sent to *de facto* complainant returned as 'unclaimed', is sufficient service.

2. The petitioner is a practicing advocate sole accused of C.C.No.2951 of 2018 on the file of II Metropolitan Magistrate, Cyberabad at L.B.Nagar, which is an outcome of report of second respondent Smt.Addu Aruna, W/o.Late Dinesh, of Gaddiannaram. The said C.C. is outcome of report of the *de facto* complainant dated 05.03.2018 to Station House Officer, L.B.Nagar covered by Crime No.276 of 2018 under Section 354 IPC, and the police after investigation filed the charge sheet for the offence supra on 25.05.2018 by citing seven witnesses including LWs.6 and 7 the Assistants Sub Inspector and the S.I. of Police, L.B.Nagar Police Station registered the crime, recorded the statement of witnesses and filed charge sheet respectively, which includes *de facto* complainant LW1 so called victim, her brother-in-law LW2 her sister LW3 and the panch witnesses to the rough sketch and scene of offence LWs.4 and 5.

3. The report of the *de facto* complainant in registration of the crime reads that she is a resident of Flat No.301, Snehaprakash Apartment, Gaddiannaram, Kothapet, that on that day 05.03.2018 at about 10.30 a.m., she and her brother

by courtesy Bonagiri Santosh who is the accused, of Chaitanyapuri, Advocate by profession, came to L.B.Nagar Court in relation to the death case of her husband. It is stated that before going into the Court hall, they boarded the lift and it is she and the accused - brother by courtesy by name Santosh both alone in the lift and there the accused caught hold of her hand and behaved indecently and she wriggled out from him and came out of the lift. Hence to take action.

4. The statement of her during investigation recorded that day speaks of the Court proceedings is covered by O.S.No.1400 of 2016 before the V Additional District Judge, L.B.Nagar, for compensation for the death of her husband who died three years back at Omni Hospital, Kothapeta having slipped from the steps near the hospital and died and the accused brother by courtesy to her is acting as an advocate in that case on her behalf and on that day 05.03.2018 to attend the Court they both proceeded and while going in lift, taking advantage of the loneliness, he caught hold of her hand and behaved indecently and she wriggled and came out of the lift and without informing anybody she went to the house in an auto and informed her relatives who taken her to L.B.Nagar Police Station and she presented the report there from as referred supra. The report given in the registration of the crime was at 07.30 p.m., occurrence in the lift was before 10.30 a.m. The distance is

hardly nil from the Court premises to L.B.Nagar Police Station, but for maximum 2 Kms. as pointed out by the learned counsel for the petitioner/accused and her residence is also at Gaddiannaram in between L.B.Nagar Police Station and the Court at Kothapeta near Gaddiannaram. There is no explanation in the report for the delay, including from the said statement of her. LW2 is Narender who speaks that it is only LW1 who informed him and his statement was recorded on even date and LW3 Manju who stated victim is her sister-in-law and she came to know from the victim but for the three witnesses there are no any witnesses to the occurrence and it is hardly believable of such version of *de facto* complainant and investigation is also perfunctory and mechanical in roping the accused advocate by profession without basis, leave apart unexplained delay, in the report and *prima facie* it is not believable of such occurrence happened for the first time in the lift when the case is pending for the past two years and that to in the Court time, not believable of only two in lift with no others and not appreciable of her conduct in not even raising cries for not a case of she came out from the lift by raising cries and ask for anybody's help and no witnesses even examined about her came to the Court premises and seen by any person.

5. Having regard to the above, the continuation of proceedings, appears to be for some extraneous reasons, is nothing but abuse of process and cannot be allowed to

continue so as to sub-serve the ends of justice. Thereby the criminal petition is allowed quashing the proceedings against the petitioner in C.C.No.2951 of 2018 on the file of II Metropolitan Magistrate, Cyberabad at L.B.Nagar. Bail bonds of the accused, if any, shall stand cancelled.

6. Consequently, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

Date:21.01.2019
vnb

Dr. B.SIVA SANKARA RAO J,