

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.12922 of 2018

ORDER:

This Criminal Petition is filed under Section 482 of the Criminal Procedure Code, 1973 (for short 'Cr.P.C.'), by the petitioners/accused seeking to quash the proceedings in C.C.No.157 of 2018 on the file of XVII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, wherein the petitioners/accused are being prosecuted for the offences alleged under Sections 499 and 500 IPC.

2. Heard arguments of Sri P.Venu Gopal, learned Senior Counsel appearing for Sri Nazir Ahmed Khan, learned counsel for the petitioners/accused; learned Additional Public Prosecutor representing the respondent No.1/State; Sri M.S.Srinivas Iyengar, learned counsel for respondent No.2/complainant and perused the record.

3. Learned Senior Counsel for the petitioners/accused would submit that the respondent No.2/complainant was looking after the administration work including finance of the hospital belonging to the petitioners/accused. The respondent No.2/complainant was involved in misappropriation of hospital funds to a tune of Rs.1 Crore and when it was detected, a criminal complaint was lodged against the respondent No.2/complainant vide Crime No.116/2017 before the Central Crime Station. The same was questioned by the respondent No.2/complainant by filing a quash petition vide Criminal Petition No.9/2018 and this

Court was pleased to quash the proceedings in Crime No.116/2017 vide order dated 27.04.2018. Aggrieved, the petitioners filed Special Leave Petition before the Hon'ble Supreme Court. It is contended that there is no material against the petitioners/accused to proceed with for the offences under Sections 499 and 500 IPC. No case is made out against the petitioners/accused to take cognizance for the said offences. Due to the pendency of the subject Calendar Case, the petitioners/accused, who are Doctors, are harassed mentally and the continuation of proceedings against them is an abuse of process of law and ultimately, prayed to quash the proceedings in C.C.No.157 of 2018 on the file of XVII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad.

4. On the other hand, learned Additional Public Prosecutor and the learned counsel for the respondent No.2/complainant would submit that there are sufficient grounds to take cognizance and proceed with against the petitioners/accused. Continuation of proceedings against the petitioners is not an abuse of process of the law and ultimately prayed to dismiss the petition.

5. As per the material placed on record, the petitioners/accused and the respondent No.2/complainant are running a Hospital under name and style "Candy Childrens Hospital" situated at Tolichowki, Hyderabad. There is a partnership deed among the petitioners/accused and the respondent No.2/complainant dated 14.05.2012. The respondent

No.2/complainant is managing the said hospital. Some differences arose with regard to the management of the said hospital among the petitioners/accused and respondent No.2 and a public notice was published in the "Siasat" and "Munsif" newspapers on 27.09.2017 on behalf of the petitioners/accused. The said newspapers have wide circulation. In the said notice, there are allegations of misappropriation of amounts to the tune of Crores of Rupees by the respondent No.2/complainant and also institution of criminal proceedings against him by the petitioners. There is also mention that the respondent No.2/complainant was removed from the partnership of the business of the said hospital and his services were terminated. There are also allegations of cheating and commission of fraud by the respondent No.2 in the said notice. Certainly, the allegations mentioned in the said notice including some of them referred above are defamatory in nature and causing harm to the reputation of the respondent No.2/complainant, who is a medical practitioner. When there are allegations causing harm to the reputation of the respondent No.2/complainant, without there being final adjudication of the commission of fraud, misappropriation of amounts, termination of services etc., by a competent authority, there is nothing wrong on the part of the trial Court in taking cognizance of a private complaint being filed by the respondent No.2/complainant against the petitioners/accused for the offences under Sections 499 and 500 IPC after recording sworn statement of the respondent No.2/complainant and proceed with. There is no abuse of process of the Court as

alleged. The petition is devoid of merit and is liable to be dismissed.

6. Accordingly, the Criminal Petition is dismissed.

Miscellaneous petitions, if any pending, shall stand closed.

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Dr. JUSTICE SHAMEEM AKTHER

Date: 29.04.2019

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