

THE HON'BLE JUSTICE G.SRI DEVI

Criminal Petition No.993 of 2020

ORDER:

This criminal petition is filed by the petitioner/A2 under Section 482 of Cr.P.C., seeking to quash the proceedings in Cr.No.8 of 2020 on the file of Valigonda Police Station, Rachakonda District, registered for the offences under Sections 366 IPC and under Section 18 of POCSO Act, 2012, against him.

2. Heard the learned counsel for the petitioner/A2; learned Additional Public Prosecutor for the 1st respondent-State and perused the record.

3. The case of the prosecution is that A1 had acquaintance with the elder daughter of the de-facto complainant, who was studying Inter II year at Sri Venkateswara Government Junior College, Valigonda, and A1 induced with deceitful manner that he loved her and he will marry her and had sexual intercourse in many times with her. On 11.01.2020 between 23.45 to 24.00 hours, the elder daughter of the de-facto complainant wake up and told his wife that her stomach was paining and she went to bathroom, but she did not return and when they came outside and searched nearby places, she did not find her. The investigation revealed that she went along A1 to Venogopala Swamy Temple, Chityal Village, with the abetment of A2, on his car and they got married in the presence of A2.

4. Learned counsel for the petitioner/A2 submits that the petitioner has nothing to do with the alleged incident and the same

was created and invented by the police. He further submits that after completion of investigation, section of law was altered under Sections 366, 376(2)(n), 109 IPC and under Section 5(l) read with Sections 6 and 18 of Protection of Children from Sexual Offence Act, 2012 and under Sections 9 and 10 of Prohibition of Child Marriage Act, 2006. He further submits that as per the remand case diary, there is no role of the petitioner in the crime and the police had implicated his name without any evidence. He further submits that as per the entire investigation, A1 is only involved in commission of the offence and that the police had included the name of the petitioner falsely and thus, he prays to quash the aforesaid proceedings against the petitioner.

5. Learned Additional Public Prosecutor opposed the prayer for quashing of the F.I.R., and submits that the contents of FIR would disclose the cognizable offence against the petitioner and there are serious allegations against him and that the investigation is still pending and therefore, the FIR cannot be quashed.

6. After considering the various decisions including the decision of **State of Haryana v. Bhajan Lal**¹'s Case, I am of the view that there can be no interference with the investigation or order staying arrest of the petitioner unless cognizable offence is not ex-facie discernable from the allegations contained in the FIR or there is any statutory restriction operating on the power of the police to investigate a case. From a perusal of the F.I.R., *prima facie*, it cannot be said that no cognizable offence is made out. Hence, no

¹ 1992 SCC (Crl.)426

ground exists for quashing of the F.I.R or staying the arrest of the petitioner. However, if the petitioner surrenders before the trial Court within three weeks from today and files an application for regular bail, the trial Court shall consider the same in accordance with law after giving due notice to the Public Prosecutor. Till such time, no coercive steps shall be taken against the petitioner/A2.

7. With the aforesaid direction, the Criminal Petition is disposed of.

8. Miscellaneous petitions, if any pending in this criminal petition, shall stand closed.

12th February, 2020

sj

JUSTICE G.SRI DEVI



