

HONOURABLE JUSTICE G.SRI DEVI

CRIMINAL PETITION No. 12742 of 2018

ORDER:

The present Criminal Petition is filed by the petitioner/A-3 under Section 482 of Cr.P.C., seeking to quash the proceedings initiated against him in C.C.No.326 of 2018 on the file of the II-Additional Judicial First Class Magistrate, Kothagudem.

The facts in issue are that the 2nd respondent/*de facto* complainant filed a private complaint before the II Additional Judicial First Class Magistrate, Kothagudem, which was referred to the police under Section 156 (3) of Cr.P.C. Basing on the said reference, the Police, Paloncha Town, registered a case in Crime No.75 of 2018. After completion of investigation, a charge sheet came to be filed against accused Nos.1 to 4 for the offences punishable under Sections 420, 354, 506, 384 and 109 read with Section 34 of I.P.C. The allegations in the charge sheet are that the 2nd respondent/*de facto* complainant belongs to perika caste and her marriage was performed with Regadi Jayaram, who belongs to Mala by caste, and out of wedlock they were blessed with two sons. Accused No.2 is the distant relative of the 2nd respondent/*de facto* complainant; Accused No.1 is the fiancé of Accused No.2 and they are residing under one roof and Accused No.4 is the mother of Accused No.1. Accused Nos.1 and 2 approached the 2nd respondent/*de facto* complainant under the guise of starting a tuition

point at her house and simultaneously to teach her sons and accordingly they started tuitions in her house bearing No.10-01-194/1 located behind Sub-Station, Gandhinagar, Paloncha Town and Mandal. While the tuitions were going on, Accused No.1 became the friend of the 2nd respondent/*de facto* complainant and made her to speak over his mobile phone with the petitioner/A-3, who is her childhood friend. Accused No.1 used to contact the petitioner/ A-3 through his mobile phone and made the 2nd respondent/*de facto* complainant to chat with him and he used to record the chatting/conversation in his mobile without her knowledge. About three months back, Accused No.1 informed the 2nd respondent/*de facto* complainant that she had spoken with the petitioner/A-3 in an illegal manner and he would reveal the same to her husband and also threatened to ruin her marital life and that he had taken the blank promissory notes and house property documents of her husband from the almirah and also taken the motor cycle and two tulas of gold. The 2nd respondent/*de facto* complainant was blackmailed dishonestly by Accused Nos.1 to 4. Accused No.1, in collusion with Accused Nos.2 to 4, got prepared false promissory note through Accused No.2 and foisted a false suit for recovery of money at Khammam and got attachment of the property of her husband. When the same was questioned by her husband, the 2nd respondent/*de facto* complainant narrated the above blackmailing and cruel criminal acts of the accused to her husband and relatives.

Accused Nos.1 to 4, with a common criminal intention in order to cheat her, also made her to obtain insurance policies up to Rs.10.00 lakhs in the process of threatening to kill her husband and her chastity could be exposed so as to ruin her marital life. Thus, Accused No.1, who retained the cell phone recorded conversation, has threatened the 2nd respondent/*de facto* complainant to fulfill his sexual desire and also the petitioner/A-3 and that they outraged her modesty by putting her in fear and to ruin her marital life.

Heard the learned Counsel for the petitioner/A-3, learned Additional Public Prosecutor for the 1st respondent-State, learned Counsel for the 2nd respondent/*de facto* complainant and perused the record.

Learned Counsel for the petitioner/A-3 would submit that the contents of the present complaint are false and the same are invented and further a plain reading of the complaint as well as the charge sheet do not satisfy the ingredients of the offences under Sections 354 and 506 of I.P.C. and that no incriminating material was found as against the petitioner/A-3. He further submitted that to prove the offence under Section 354 of I.P.C., the person against whom the complaint was lodged should act with criminal force to outrage the modesty of a woman and in the instant case no such allegation was there and further according to the statements of the witnesses, which were recorded during the course of investigation, clearly reveal that no material objects were recovered from the

possession of the petitioner/A-3 and, therefore, taking cognizance of the offences under Sections 354 and 506 of I.P.C. as against the petitioner/A-3, even without there being any iota of evidence, is sheer abuse of process of law. He further submits that during the course of investigation, the police could not find any material against the petitioner/A3, which could establish the criminal intimidation and, therefore, continuation of proceedings against the petitioner/A-3 in the instant case are sheer abuse of process of law and the same are liable to be quashed.

Learned Counsel for the 2nd respondent/Complainant would submit that Accused Nos.1 to 4, with a common criminal intention in order to cheat the 2nd respondent/*de facto* complainant, retained the cell phone recorded conversation and forced the 2nd respondent/*de facto* complainant to fulfil the sexual desire of A-1 and the petitioner/A-3. The truth or otherwise of the allegations can only be decided in the course of trial and the charge sheet cannot be quashed at the threshold.

All the contentions raised by the learned Counsel for the petitioner/A-3 relate to disputed questions of fact. The Court has also been called upon to adjudge the testimonial worth of the 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/A-3. The veracity and credibility of material furnished on behalf of the 2nd respondent/*de facto*

complainant has been questioned and false implication has been pleaded.

The law regarding sufficiency of material which may justify the summoning of the petitioner/A-3 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.

On perusal of the charge sheet and the material in support of the same, this Court does not find it to be a case which can be determined or gone into in an application under Section 482 Cr.P.C. This Court cannot hold a parallel trial in an application under Section 482 Cr.P.C. No such ground appears to be available to the petitioner/A-3 on the basis of which the impugned proceedings can be quashed going by the settled law in *R.P.Kapur v. State of Punjab*¹; *State of Haryana v. Bhajan Lal*²; *State of Bihar v. P.P.Sharma*³ and *Zandu Pharmaceutical Works Limited v. Mohd. Saraful Haque and another*⁴. Hence, the prayer for quashing the proceedings against the petitioner/A-3 in C.C.No.326 of 2018 on the

¹ AIR 1960 SC 866

² (1992) SCC (Cr.) 426

³ (1992) SCC (Cr.) 192

⁴ (2005) SCC (Cr.) 283

file of the II-Additional Judicial First Class Magistrate at Kothagudem, is refused.

Accordingly, the Criminal Petition is dismissed. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

03.02-2020
gkv/Gsn

JUSTICE G.SRI DEVI

