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Court : Chennai

Decided On : Sep-23-2016

Judge : P.N. Prakash

Appeal No. : Crl.O.P.No. 16441 of 2010 & M.P.No. 1 of 2010

Appellant : Rangarasu and Others

Respondent : State rep. by Inspector of Police, Nilgiri District and Another

Judgement :

(Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pertaining to Crime No.2/2010 on the file of the first respondent and quash the same.) 1. This petition has been filed to call for the records pertaining to Crime No.2/2010 on the file of the first respondent and quash the same.

2. Heard the learned Senior Counsel for the petitioners, the learned Additional Public Prosecutor appearing for the State and the learned counsel for the de facto complainant.

3. For the sake of convenience, the parties will be referred to by their name.

4. Helen Margret [de facto complainant] filed a private complaint before the Judicial Magistrate, Coonoor, against 10 accused, which was referred by the

Judicial Magistrate to the respondent police under Section 156(3) Cr.P.C., pursuant to which the respondent police have registered a case in Cr.No.2 of 2010 on 25.05.2010 u/s 120-B, 323, 354, 376, 420, 493 and 506(ii) IPC against R.Loganathan and nine others, challenging which A2 to A10 are before this Court.

5. Learned counsel for the accused submitted that the complaint does not disclose commission of a cognizable offence as against A2 to A10, though there are prima facie materials as against Loganathan [A1].

6. Learned counsel contended that Rangarasu [A2] and Vanaja [A3] are the parents of Loganathan [A1] and A4 to A6 are the relatives of Loganathan [A1] and A7 to A9 are the driver and friends of Loganathan. He further submitted that, in view of the law laid down in Priyanka Srivastava and another v. State of Uttar Pradesh and others [(2015) 6 SCC 287], the Magistrate ought not to have issued a direction u/s 156(3) Cr.P.C., without an affidavit from Helen Margret.

7. Per contra, Mr.C.Emalias, learned Additional Public Prosecutor refuted the allegations.

8. This Court gave its anxious consideration to the rival submissions.

9. This Court carefully perused the complaint lodged by Helen Margret, which form the basis for registering the FIR. It is alleged by Helen Margret that Loganathan [A1] and she were in love for about six years and Loganathan had sexual relationship with her on the promise of marrying her, but reneged thereafter. She has further alleged in the complaint that, the other accused agreed to marriage, because they found Helen Margret to be very rich, so that they can get valuable properties from her.

10. It is the specific case of Helen Margret that the accused had taken golden anklets of 4 sovereigns and other valuable jewellery from her. After having taken all this, all the accused had made arrangements to have Loganathan [A1] married to one Shoba of Kothagiri. In support of the allegations, Helen Margret has also annexed documentary evidence along with the complaint.

11. Learned counsel for the accused relied upon the following judgments:

(1) Judgment of the Delhi High Court in Anil Sharma and another v. S.N.Marwaha and another [1994 (30) DRJ]

(2) Judgment of the Supreme Court in Tilak Raj v. State of Himachal Pradesh [(2016) 4 SCC 140]

(3) Judgment of the Supreme Court in Manoj Kumar Sharma and Ors vs. State of Chhattisgarh and another [(2016) SCC Online SC 852].

12. In Anil Sharma case, the Delhi High Court had quashed the prosecution on the ground that there were no credible materials as against the accused therein. In Tilak Raj case, the accused was convicted in regular trial and had filed an appeal before the Supreme Court. In Manoj Kumar Sharma case, the Supreme Court observed that there was five years delay after the case was closed u/s 174 Cr.P.C. and a fresh FIR registered therein. Therefore, these judgments will not be of much assistance to the case at hand.

13. As regards the contention that the Magistrate should have obtained an affidavit as mandated by Priyanka Srivastava, it is seen that Priyanka Srivastava was decided by the Supreme Court on 19.03.2015, whereas, the direction u/s 156(3) Cr.P.C was issued by the Judicial Magistrate, Coonoor, way back in 2009 and the FIR has been registered as Cr.No.2 of 2010. Hence, Priyanka Srivastava cannot be applied retrospectively to quash the FIR on the ground that the complainant had not filed an affidavit before the Magistrate.

14. In this case, there are sufficient allegations against Rangarasu [A2] and Vanaja [A3], the parents of Loganathan [A1], who were responsible for getting money and gold jewels from Helen Margret and therefore, a full fledged investigation of the case is necessary. As regards A4 to A10, this Court finds that they are distant relatives and friends and there are no credible materials as against them.

In the result, this petition is partly allowed. The FIR in Cr.No.2/2010 as against Mageshwaran [A4], Uma @ Uma Mageshwari [A5], Saravanan [A6], Jayanthi @ Jaya Samundeeshwari [A7], Babu @ Pithalai [A8], Saravanan [A9] and

Mahendran [A10] is hereby quashed. The petition is dismissed as regards Rangarasu [A2] and Vanaja [A3]. Consequently, connected miscellaneous petition is closed.

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