

Dr.Surendranath Reddy Pothireddy Vs G. Paul Raj

Court: High Court For The State Of Telangana:: At Hyderabad

Date of Decision: Aug. 17, 2021

Acts Referred: Code Of Criminal Procedure, 1973 â€” Section 41A

Contempt Of Courts Act, 1971 â€” Section 10, 11, 12

Indian Penal Code, 1860 â€” Section 120B, 166, 167, 220, 344, 346, 406, 420, 498A

Dowry Prohibition Act, 1961 â€” Section 3, 4, 6

Prevention Of Corruption Act, 1988 â€” Section 7, 13

Hon'ble Judges: G.Sri Devi, J

Bench: Single Bench

Advocate: Pulla Rao Yellanki

Final Decision: Dismissed

Judgement

1. This Contempt Case is filed by the petitioner seeking to punish the respondents herein under Sections 10 to 12 of the Contempt of Courts Act, 1971,

for violating the guidelines of the Supreme Court in Arnesh Kumar v. State of Bihar 2014 (8) SCC 273, while arresting the petitioner in Crime No.288

of 2014 of Women Police Station, CCS, Hyderabad, registered for the offences punishable under Sections 498-A, 420 and 406 of I.P.C. and Sections

4 and 6 of the Dowry Prohibition Act, 1961.

Heard learned Counsel for the petitioner, learned Government Pleader for Home appearing for the respondents and perused the record.

It is the case of the petitioner that he is Accused No.1 in Crime No.288 of 2014 of Women Police Station, CCS, Hyderabad, registered on 16.09.2014

for the offences punishable under Sections 498-A, 406 and 420 of I.P.C. and Sections 4 and 6 of the Dowry Prohibition Act, 1961. The said crime

was registered against the petitioner and his family members on a complaint made by the wife of the petitioner. Before registration of the said F.I.R.,

the 1st respondent herein had sent two constables viz., Narsimhulu and Nayak to his work place at Trust Hospital, Kakinada on 17.05.2014, where he

was working as a doctor and the said constables asked him to come to Hyderabad without giving any notice, however, he appeared before the

Women Police Station, Hyderabad, on 18.05.2014 and that the 1st respondent interrogated him in connection with the family dispute and threatened

him to hear the words of his wife and her father. Even after the petitioner agreed the demands of his wife and her father, the 1st respondent

intentionally took him into illegal custody up to 31.05.2014 and thereafter he released him. It is further stated that when the wife of the petitioner again

gave a written complaint on 19.05.2014 against him and his family members alleging that they demanded dowry and on 19.09.2014, the 1st respondent

called him through the aforesaid constables and that the petitioner appeared on 20.09.2014 and then the 1st respondent sent him to Osmania General

Hospital for health check up on 21.09.2014 and the 3rd respondent obtained medical certificate on the same day. The 1st respondent and the police of

Women Police Station, Hyderabad, had taken the petitioner into illegal custody up to 29.09.2014, without producing him before the Court, and tortured

and humiliated him by putting into the Cell. Thereafter, the parents of the petitioner had applied for anticipatory bail before the Metropolitan Sessions

Court, Nampally, and in the said bail application, the Women Police Station, CCS, Hyderabad, filed a counter alleging that the petitioner was

absconding since the date of registration of the crime and accordingly the said bail application was dismissed on 30.09.2014. However, the petitioner

was granted station bail on 29.09.2014 and his mother got bail on 07.10.2014. Thereafter, the Women Police Station, CCS, Hyderabad, issued a notice,

dated 29.10.2014, under Section 41 (A) of Cr.P.C. asking the petitioner to appear before the said Police Station on 30.11.2014 for examination and

accordingly he appeared before the police on 30.11.2014 and later the police filed charge sheet against the petitioner and his mother and the same was

taken cognizance as C.C.No.784 of 2016, by deleting the names of the father and brother of the petitioner. Subsequently, the wife of the petitioner

filed a petition before the Court seeking to add the father and younger brother of the petitioner, which was allowed.

It is the further case of the petitioner that after thorough verification of the charge sheet, it reveals that the petitioner had surrendered before the

Women Police station, CCS, Hyderabad on 29.09.2014 and he had obtained a copy of the charge sheet under Right to Information Act from W.P.S.,

CCS, Hyderabad, but it was not submitted before the Court. It seems that the respondents prepared two separate charge sheets. It further reveals

that in the charge sheet, which was submitted before the Magistrate, shows that there are two Investigating Officers namely S.Chandra Sekhar Rao,

S.I. of Police, WPS, CCS, DD, Hyderabad and Smt. T.Jyothsna, Inspector of Police, WPS, CCS, DD, Hyderabad. But, another charge sheet, which

was obtained by the petitioner through Right to Information Act, shows only one Investigating Officer namely Smt. T.Jyothsna. In the last paragraph

of page No.6 of the charge sheet, which was obtained under R.T.I. Act, it was stated that the complaint was forwarded to SWARD counseling

center and the authorities of counseling center tried to counsel the matter for (6) times, but the counseling was failed and that the complaint re-

directed to Women Police Station for further action. In an un-numbered paragraph No.3 at Page No.7 of the said charge sheet, it was mentioned that

permission for arrest of A-1 was obtained from the Deputy Commissioner of Police (1st respondent), Detective Department, Hyderabad. But, the

above said two paragraphs were not mentioned in the charge sheet, which was submitted before the Court. It seems that the respondent manipulated

the different charge sheets by incriminating the petitioner and his parents in the above said crime though they never demanded any dowry.

Therefore, the petitioner herein filed a private complaint against the respondents herein before the I-Additional Chief Metropolitan Magistrate,

Hyderabad, and the same was referred to the police, Saifabad, Hyderabad, for investigation and report and the police registered the same as a case in

Crime No.97 of 2016 against the accused for the offences punishable under Sections 166, 167, 220, 344, 346, 120 (B) of I.P.C. and Sections 7 and 13

of Prevention of Corruption Act. After due investigation, the police opined that it is a mistake of fact and accordingly a final report was filed before

the I-Additional Chief Metropolitan Magistrate, Hyderabad. After receipt of notice, the petitioner filed protest petition i.e., CrI.M.P.No.2886 of 2017

seeking to take up the complaint on file and to conduct enquiry and punish the accused according to law and the same was dismissed by the learned

Magistrate on 27.06.2018. Questioning the said order, the petitioner filed CrI.R.C.No.2145 of 2018 and the same was also dismissed by this Court vide

order dated 30.09.2019. Aggrieved by the same, the petitioner filed a petition before the Supreme Court, which was also dismissed. Thereafter, the

petitioner personally made a representation before the Supreme Court, which was taken up vide No.13917/SCI/PIL(e)/2020 and the same is pending

for adjudication.

Therefore, it is stated by the petitioner that the respondents without issuing a notice under Section 41-A of Cr.P.C. arrested him on 20.09.2014,

manhandled and humiliated him by abusing filthy language and also illegally detained him for a period of 23 days in two sessions and thereby they have

violated the guidelines of the Apex Court in the case of Arnesh Kumar (1 supra). It is also stated by the petitioner that after receipt of notice under

Section 41 (A) of Cr.P.C., the petitioner moved to Dubai for his job and worked there for a span of three years and in the year 2019 he got an

opportunity to go to Australia, for working as a Doctor and in the month of September, 2020, he came back to India for pursuing criminal cases

registered against him, for which, he approached his Counsel and the Counsel advised him to file Contempt Case against the respondents for violating

the guidelines of the Apex Court in the case of Arnesh Kumar (1 supra). Therefore, he could not file the contempt case within time and since the

criminal case is pending before the Magistrate, the Contempt Case is maintainable against the respondents.

Respondent Nos.1 to 3 herein filed separate counters stating that basing on the complaint lodged by the wife of the petitioner, a case in Crime No.288

of 2014 was registered against the petitioner and others on 16.09.2014 for the offences punishable under Sections 498-A, 406, 420 I.P.C. and Sections

3 and 4 of Dowry Prohibition Act, and as a part of investigation, the 3rd respondent had examined the complainant and other witnesses and recorded

their detailed statements. As per the evidence, prima facie case is clearly made out that all the accused including the petitioner have committed the

offences mentioned in the F.I.R. It is further stated that since it came to light to the investigating agency that the petitioner has got passport and may

leave the Country at any point of time without informing to anyone, the 3rd respondent had addressed the 1st respondent to accord permission to

arrest the petitioner. When the investigation was under progress, the petitioner came to the police station and surrendered before the police on

29.09.2014 and then notice under Section 41-A Cr.P.C. was served on the petitioner and released him on his executing a personal bond with

instructions to appear before the Court after receipt of summons. It is also stated that the 3rd respondent also served notice under Section 41-A of

Cr.P.C. to the mother of the petitioner on 07.10.2014 and released her on personal bond. Thereafter, as per the instructions of the 1st respondent,

further investigation was taken up by the 2nd respondent. After completion of investigation, charge sheet was filed against the petitioner (A-1) and his

mother (A-3) by deleting the names of the father and brother of the petitioner, which was taken on file as C.C.No.786 of 2016. While the matter stood

thus, the petitioner filed a private complaint against his wife, father-in-law and the respondents herein and the same was referred to police. On receipt

of the private complaint, a case in Crime No.97 of 2016 of Saifabad Police Station, Hyderabad, has been registered and after due investigation, the

police filed final report referring the case as "Mistake of Fact". Aggrieved by the same, the petitioner filed protest petition, which was dismissed

by the Magistrate on 27.06.2018. Questioning the said order, the petitioner filed CrI.R.C.No.2145 of 2018 before this Court. While dismissing the

revision, this Court observed that "along with the protest petition, the revision petitioner produced 23 documents to establish about his illegal

custody, each and every document filed by him has been duly considered by the Magistrate and after considering all aspects, the learned Magistrate

dismissed the protest petition. Hence, there is no illegality or irregularity in the order passed by the learned Magistrate. It is also stated that

aggrieved by the dismissal of the revision, the petitioner filed a petition before the Supreme Court vide No.13917/SCI/PIL(e)/2020, which is pending

adjudication. It is also stated that in fact, except issuance of notice under Section 41-A of Cr.P.C. no arrest whatsoever was made and not produced

the petitioner before the Court concerned. Therefore, no credence can be given to the allegations made by the petitioner in the affidavit filed in support

of the Contempt Petition and the same is liable to be closed.

A perusal of the material available on record would show that with the same set of allegations with regard to his illegal detention for a period of 23

days, the petitioner herein filed a private complaint against his father-in-law, wife and the respondents herein and the same was referred to the police

for investigation and report and on reference, the Police, Saifabad Police Station, Hyderabad, registered a case in Crime No.97 of 2016 for the

offences punishable under Sections 166, 167, 220, 344, 346 and 120-B of I.P.C. and Sections 7 and 13 of the Prevention of Corruption Act. After due

investigation, the police filed final report before the concerned Court referring the case as "Mistake of fact". Aggrieved by the same, the

petitioner herein filed protest petition i.e., CrI.M.P.No.2886 of 2017 seeking to take up the complaint on file and to conduct enquiry and to punish the

accused according to law. After recording the sworn statements of the petitioner and one A.Venkateswara Rao and after considering 23 documents,

which were filed along with the protest petition, the learned Magistrate has dismissed the said protest petition on 27.06.2018. Challenging the same, the

petitioner filed CrI.R.C.No.2145 of 2018 before this Court. After considering the entire material on record, this Court dismissed the said revision on

30.09.2019. Challenging the same, the petitioner approached the Apex Court by filing a petition vide No.13917/SCI/PIL(e)/2020, which is pending

adjudication. When the matter is subjudice before the Hon'ble Supreme Court, the petitioner filed this Contempt Case for the alleged violation of

the guidelines of the Supreme Court in the case of Arnesh Kumar (1 supra). That apart, except issuance of notice to the petitioner under Section 41-A

of Cr.P.C. there is nothing on record to show that any arrest whatsoever was made by the respondents. Thus, in the light of the pendency of the

petition before the Apex Court, this Court is of the considered view that the Contempt Case filed by the petitioner is not maintainable.

Accordingly, the Contempt Case is dismissed.