

(2015) 04 AP CK 0054

In the Andhra Pradesh High Court

Case No : Criminal Petition No. 8287 of 2013

Veerabhadram Vislavath

APPELLANT

Vs

The State of Andhra Pradesh and Others

RESPONDENT

Date of Decision : 27-04-2015

Acts Referred:

Arms Act, 1959 — Section 25

Criminal Procedure Code, 1973 (CrPC) — Section 154, 161, 162, 482

Penal Code, 1860 (IPC) — Section 120(B), 323, 34, 354, 354(A)

Citation : (2015) 2 ALD(Cri) 162 : (2015) 2 ALT(Cri) 274

Hon'ble Judges : U. Durga Prasad Rao, J

Bench : Single Bench

Advocate : B. Chandrasen Reddy, for the Appellant

Final Decision : Allowed

Judgement

U. Durga Prasad Rao, J.

1. In this petition filed under Section 482 Cr.P.C., the petitioner/A.1 seeks to quash the proceedings in Crime No. 250 of 2013 of Balanagar P.S., Cyberabad.

2. One G. Malleshham, who is doing cloth business in the name and style of M/s. Chitrabhanu Selection is the complainant. His case is that A.1 who is an IRS Officer used to visit his shop and gradually he developed intimacy with his daughter Vani who was an Engineering Graduate and preparing for Civil Services Examination. Under the guise of helping her in preparation of Civil Services Examination, he trapped her in a love affair since 2006 which the complainant could not detect and had only come to know much later through his daughter in 2012. During 2012 when he was finalizing marriage alliance for her, he came to know that A.1 became furious and abused her and bet her at his residence in Srinagar Colony questioning as to how she could think of marrying someone else, when he was there to marry her. After that A.1 was repeatedly threatening her to come away and marry him and he used to physically and mentally torture her. He was also threatening the complainant and his family members by visiting their

house. The complainant recorded the acts of A.1 in digital camera fixed in his shop and home. It is further alleged that in the month of September, 2012 A.1 accompanied by A.4, who is the Inspector of Police, Balanagar P.S. and A.2 came to the residence of the complainant in the night at about 11:30 p.m. in an inebriated condition and brought a bottle of liquor along with him and consumed it in their house and thereafter created nuisance by abusing his daughter, wife and younger daughter in a most filthy language and further, A.1 spit on the face of his second daughter and kicked her in front of his family members and outraged the modesty of his wife in the presence of A.4 and others. Not content, on the next day morning A.1 along with A.2 came to their house with a revolver and threatened the complainant and his family members at the point of revolver and forcibly tonsured the head of his daughter Vani proclaiming that he did it so that nobody should come forward to marry her and on the same day evening A.1, A.2 and A.4 came to his residence and threatened him to pay Rs. 25 Lakhs on the ground that A.1 spent about Rs. 25 Lakhs for the selection of his daughter in Group I Services and when complainant refused, he threatened that he would see the end of complainant and his family members. Further A.2 and A.3 came to the residence of complainant on 12th and 13th of May, 2013 and threatened with dire consequences if they failed to compromise with the issue and go ahead with lodging complaint with the police.

The investigation is reported to be pending.

3. Heard.

4. Denying the charges learned counsel for petitioner/A.1 prayed for quashment of proceedings on the main plank of argument that with the same allegations, the daughter of complainant Vani gave report to Police of Bowenpally P.S. against the present A.1 to A.4 and on 20.05.2013 police registered a case in Crime No. 216 of 2013 for the offences under Sec. 448, 417, 420, 387, 354, 354(A), 355, 506, 509, 323, 120(B) r/w 34 IPC and Sec. 25 of Arms Act and investigation is pending in that matter and in that case the petitioner/A.1 obtained anticipatory bail and in view of the same, the present Crime No. 250 of 2013 with the same set of allegations is not maintainable under law and hence the proceedings may be quashed.

5. Learned Additional Public Prosecutor opposed the petition.

6. In the light of above rival arguments, the point for determination is: Whether there are merits in this petition to allow?

7. POINT: There can be no demur that perusal of FIR No. 250 of 2013 shows that it contains strong prima facie allegations against all the accused. Be that it may, when the allegations in FIR No. 250 of 2013 and allegations in FIR No. 216 of 2013 a copy of which is filed by the petitioner, are compared, they would show that both the FIRs contain same set of facts and allegations against the accused. Except the narration wise difference here and there, the main incidents relating to the offences are virtually same in both the FIRs. Crime No. 216 of 2013 is the

earliest one lodged by G. Vani on 20.05.2013 at about 20:00 hours in Bowenpally P.S. whereas FIR No. 250 of 2013 was also lodged on 20.05.2013 at about 21:00 hours by G. Mallesham in Balanagar P.S. a) Now the question is whether two or more separate complaints in different police stations relating to same offence/occurrence can be lodged and investigated into. It must be said that this legal question is no more res integra and the same was dealt with by a learned Judge of this High Court in a recent decision reported in Akbaruddin Owaisi vs. The Government of Andhra Pradesh. In that case the questions that came up for consideration are:

Does Section 154 of the Criminal Procedure Code, 1973 (hereinafter called "Cr.P.C.") permit registration of two separate complaints in two different police stations for offences arising out of one occurrence/event/incident? If so, does the Cr.P.C. permit parallel and simultaneous investigations being conducted there into? If, on the other hand, the Cr.P.C. does not permit two parallel investigations by police officers of two different police stations, for offences arising out of the same incident, can the Station House Officer or the Magistrate transfer the complaint registered in one police station to the other for investigation even if both the police stations have territorial jurisdiction to register and investigate the said complaint? In such a case, should the transferred complaint be treated as a Section 162 Cr.P.C. statement by the Station House Officer of the police station to which it is transferred?

Discussing various decisions on the subject in issue, learned Judge held thus:

Considering the submission of the learned Counsel and in the facts and circumstances of the cases, the office concerned, before whom one of the cases is transferred, is hereby directed to treat the other cases registered in various police stations as also the fresh complaints in connection with the same transaction as statements of other aggrieved persons and investigate the matter as one case and file a final report either way before the Court concerned...

The above decision a fortiori applies to the present case also since two successive FIRs are registered in two different police stations in respect of same set of facts constituting offences. Therefore, simultaneous and parallel investigation in the above two FIRs cannot be permitted. On the other hand, the investigation in earlier registered FIR No. 216 of 2013 of Bowenpally P.S. shall be continued to its logical end and whereas the FIR No. 250 of 2013 of Balanagar P.S. and the statements if any recorded shall be liable to be transmitted to the file of Crime No. 216 of 2013 of Bowenpally P.S. to serve the purpose as 161 Cr.P.C. statements.

8. In the result, this Criminal Petition is allowed and ordered as follows:

The Investigating Officer in FIR No. 250 of 2013 of Balanagar P.S. is directed to close the FIR No. 250 of 2013 and transmit the entire record to the file of FIR No. 216 of 2013 of Bowenpally P.S. and Investigating Officer in FIR No. 216 of 2013 of Bowenpally P.S. is directed to treat the FIR and other statements if any in FIR

No. 250 of 2013 of Balanagar P.S. as 161 Cr.P.C. statements in FIR No. 216 of 2013 and complete the investigation expeditiously and file the report before the concerned Court.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.