

THE HON'BLE SMT. JUSTICE K. SUJANA

CRIMINAL PETITION NO.3348 OF 2024

ORDER:

This Criminal Petition is filed by the petitioners/accused Nos.2 and 4 under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') to quash the proceedings against them in C.C.No.20976 of 2019 pending on the file of III-Additional Chief Metropolitan Magistrate at Nampally, Hyderabad. The allegations leveled against the petitioners are under Sections 354 (A) (ii) and 509 of Indian Penal Code (for short 'I.P.C').

2. The facts of the case are that the 1st petitioner is an Assistant Vice President, PRO of Star India Private Limited (Star Maa Division) which is a leading broadcaster in India and is the exclusive licensee of media rights to various sporting events. The company along with its affiliated companies owns a network of about 65 TV channels in eight languages. The 2nd petitioner is the Vice President, Programming Department of Star India Private Limited (Star Maa Division).

3. The 2nd respondent/defacto complainant gave a complaint on 13.07.2019 stating that one Ravikanth (A.1) called her in

March, 2019 and informed her that she had been selected in Big Boss-3 show. Upon enquiry, as to how they got her number, she was informed that she has been a trending star on social media in recent times, as such, she was selected. Thereafter, A.1 met 2nd respondent at News Republic TV in the month of March, where, he explained the details of game and later on, the 2nd respondent met A.1, Abhishek (A.3) at Baskin Robins, Banjara Hills, where they discussed further details and also met 1st petitioner at Mint Leaf Restaurant at Srinagar Colony. The 1st petitioner who is a coordinator discussed about the rules and regulations of the show and also informed that the show would go on for 90 days starting from 21st of July. Thereafter, the 2nd respondent and 1st petitioner met two to three times and in the fourth meeting, apart from Raghu, the HR Manager of Star Maa was also present where they discussed about remuneration and the 2nd respondent was made to sign on bond papers and due to her prior commitments, she skimmed through the said papers and she was informed that she would be given papers in due course. Later the 2nd respondent was informed that she was selected for the Big Boss show and she should not take up any projects for a period of three months.

4. On 04.06.2019 the 2nd respondent met the petitioners in Mint Leaf Restaurant where the 2nd petitioner used filthy language at her sitting by the side of 1st petitioner and the following conversation took place between the 2nd petitioner and 2nd respondent :

Shyam : Why we should take you in big boss ?

: I did not ask you to select me in Big Boss.

Shyam : Not like that madam how will you satisfy our boss ?

: Why should I satisfy your boss.

Shyam : To come to Big Boss you should satisfy our boss ?

: I don't have any need to satisfy your boss.

Shyam : When are you decreasing your body weight?

: Big Boss is a mind game, so that don't need any relation with body, why are you asking about body shaping.

Shyam : To look attractive and beautiful, you need to impress our boss.

: to come to Big Boss, your boss needs zero size beauties and he takes who looks so.

Shyam : By seeing, who looks attractive only our boss gets impressed.

: To impress your boss, I don't have any interest to participate in the show.

Shyam : When you commit to impress our boss till the end of the show, they only we will take you.

5. In the complaint the 2nd respondent further alleged that after the above conversation, she left the place as the 2nd petitioner insulted her and she was mentally depressed. Hence, the 2nd respondent lodged the complaint. The police after conducting investigation filed charge sheet for the offences referred supra.

6. Heard Sri T.Niranjan Reddy, learned Senior Counsel appearing for Sri T.Sushanth Reddy, learned counsel for the petitioners and Sri S.Ganesh, learned Assistant Public Prosecutor appearing for the respondent-State.

7. The contention of learned counsel for the petitioners is that the averments in the charge sheet even if presumed to be true, they do not constitute any offence and the statement of 2nd respondent itself is not sufficient to proceed against the petitioners. The alleged statement of 2nd respondent which was relied upon by the investigating officer, led the petitioners being added as an accused in the charge sheet, cannot be the sole basis for proceeding against them and registration of FIR and filing charge sheet is nothing but abuse of process of law. The averments of the complaint does not constitute any offence

much less Section 354-A (ii) of I.P.C, there is delay of 40 days in filing a complaint from the date of alleged incident i.e., 04.06.2019 is inconceivable, since the 2nd respondent is a journalist by profession. The 2nd respondent failed to explain the delay in giving the complaint. The investigating officer ought to have seen that in the absence of any material evidence or attribution of overt act or omission to the petitioners, they cannot be said to have committed any offence merely on the basis of preponderance of probabilities and the allegations are leveled solely due to non-selection to the Big Boss show and as per the complainant also, there is no physical attack, demand or request for sexual favour or making sexual colour marks by the petitioners. As such, the offences alleged do not attract to the petitioners and the charge sheet is liable to be quashed.

8. On the other hand, the learned Assistant Public Prosecutor would submit that there are serious allegations against these petitioners and the case is of the year 2019, which requires trial and prayed the Court to dismiss this petition directing the trial Court to conclude the trial at the earliest.

9. Having regard to the submissions made and the material available on record, the allegations against these petitioners are

the 2nd petitioner who is A.4 asked the 2nd respondent as to how she would satisfy his boss and she has to satisfy his boss to select in the Big Boss show. He has also commented on her body shape. To attract Section 354-A of I.P.C, the ingredients of the provision should be satisfied.

10. Section 354-A of I.P.C., reads as under :

“354-A. Sexual harassment and punishment for sexual harassment.—(1) A man committing any of the following acts—

- (i) physical contact and advances involving unwelcome and explicit sexual overtures; or
- (ii) a demand or request for sexual favours; or
- (iii) showing pornography against the will of a woman; or
- (iv) making sexually coloured remarks, shall be guilty of the offence of sexual harassment.

(2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

(3) Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.”

11. In the present case, the only statement of 2nd respondent is that the 2nd petitioner asked her as to how she would satisfy

his boss, whereas there is no demand for sexual favour. Further, the discussion on body shape does not attract the offence under Section 354-A (ii) of I.P.C and as seen from the record, there is delay of 40 days in giving complaint and no reasons are assigned by the 2nd respondent for the said delay. In column No.8 of the FIR, it is mentioned as “No delay”, whereas, as per the complaint, the incident occurred on 04.06.2019 and the 2nd respondent gave complaint to the police on 13.07.2019 with a delay of 39 days. Further the statement of Lw.2 who is working as Manager in Mint Leaf Restaurant shows that the 2nd respondent used to visit their restaurant occasionally and she told that because of Ravikanth and Shyam, she was not selected to the Big Boss show as she has not given any commitment to their Boss and that she was troubled mentally and physically.

12. Admittedly there is delay of 39 days in giving complaint which is not explained and the record shows that there is no explanation with regard to delay. Further, the averments in the complaint are that one of the accused stated that 2nd respondent has to satisfy his boss but there is no averment to show that the 2nd respondent has to satisfy the boss sexually. Therefore, Section 354-A (ii) does not attract to the petitioners

and there are no further averments to constitute the offence under Section 509 of I.P.C. Viewed from any angle the averments do not constitute any of the offences and further there is unexplained delay of 39 days in giving complaint, even though the 2nd respondent is a journalist, which fortifies the argument of learned counsel for the petitioners that 2nd respondent gave complaint only after she came to know that she is not selected to Big Boss show. As such, continuation of proceedings against the petitioners is nothing but abuse of process of law and the same is liable to be quashed.

13. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioners in C.C.No.20976 of 2019 pending on the file of III-Additional Chief Metropolitan Magistrate at Nampally, Hyderabad, is hereby quashed.

Miscellaneous petitions, if any, pending shall stand closed.

Date : 09.09.2024
Rds

K. SUJANA, J