

THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

CRIMINAL PETITION No.362 of 2022

ORDER:-

This Criminal Petition under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") is filed seeking quash of F.I.R. in Crime No.612 of 2021 of Women Police Station, Visakhapatnam City.

Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

The petitioner is A.4 in Crime No.612 of 2021 of Women Police Station, Visakhapatnam City. He is the brother of the husband of the *de facto* complainant. The *de facto* complainant lodged a report with the police stating that A.1, who is her husband, his relatives and family members have subjected her to physical and mental cruelty making illegal demands. She has also stated that when all her family members including the petitioner herein, who is the brother of her husband, went to Araku, the petitioner herein misbehaved with her. The said report was registered as a case in Crime No.612 of 2021 of Women Police Station, Visakhapatnam City, for the offences punishable under Sections 498-A, 354A and 506 of I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act. The crime is being investigated and during the course of investigation, a detailed statement of the *de facto* complainant was recorded under Section 161 of Cr.P.C. She has stated in her statement that when all her family members along with her husband-A.1 and the petitioner herein, who is A.4, went to Araku and when she was sleeping during night time, the

petitioner herein, who is A.4, came and placed his hand on her and at that time she woke up. Therefore, it is held that the petitioner herein is liable for prosecution for the offence punishable under Section 354A of I.P.C.

Learned counsel for the petitioner would submit that the petitioner is residing in U.S.A. and he has been falsely implicated in this case with false allegations. Therefore, he would pray for quash of the F.I.R. registered against the petitioner.

Learned Additional Public Prosecutor opposed the criminal petition. He would submit that when the petitioner came from U.S.A. to India and when all the family members together went to Araku, the petitioner has misbehaved with the *de facto* complainant by placing his hand on her while she was sleeping and the said act committed by the petitioner clearly constitutes the offence punishable under Section 354A of I.P.C. So, he would submit that there are no valid grounds for quash of the F.I.R. and thereby prayed for dismissal of the criminal petition.

As can be seen from the contents of the F.I.R., a clear allegation is made that when the *de facto* complainant along with her husband/A.1 and other family members including A.4, who is the petitioner herein, went to Araku, the petitioner misbehaved with her. In her Section 161 Cr.P.C. statement, she stated that when she was sleeping in Araku, the petitioner came to her and placed his hand on her body and at that time she woke up and noticed the petitioner was by the side of her. A reading of Section 354A of I.P.C. makes it clear that when a man commits an act of physical contact and advances involving unwelcome and explicit

sexual overtures shall be guilty of the offence of sexual harassment. Therefore, in the light of the aforesaid ingredients contemplated under Section 354A of I.P.C., the aforesaid alleged act said to have been committed by the petitioner clearly constitutes a *prima facie* offence punishable under Section 354A of I.P.C. Therefore, the matter requires investigation to find out the truth or otherwise of the said allegation. At this stage there are no valid or legal grounds emanating from record warranting interference of this Court under Section 482 of Cr.P.C. either to quash the F.I.R. or to interdict the investigation. Therefore, the criminal petition lacks merit.

Resultantly, the Criminal Petition is dismissed. However, as the offence registered against the petitioner is punishable with less than seven (7) years period of imprisonment, the Investigating Officer is directed to adhere to the procedure contemplated under Section 41A of Cr.P.C.

Miscellaneous petitions, if any pending, in the Criminal Petition, shall stand closed.

JUSTICE CHEEKATI MANAVENDRANATH ROY

Date: 01.02.2022

Ivd

THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

CRIMINAL PETITION No.362 of 2022

Date: 01-02-2022

Ivd