

HIGH COURT FOR THE STATE OF TELANGANA

CRIMINAL PETITION No.1237 of 2016

Between

Smt. Lalpet Sharada

Petitioner

AND

\$ State by Station House Officer,
Mahankali Police Station, Secunderabad,
Rep., by Public Prosecutor and another.

Respondents

DATE OF ORDER PRONOUNCED: 20-06-2022

HON'BLE DR. JUSTICE D. NAGARJUN

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| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

***THE HON'BLE DR. JUSTICE D. NAGARJUN**

+CRIMINAL PETITION No.1237 OF 2016

% Dated 20-06-2022

Crl.P.No.1237 of 2016

Smt. Lalpet Sharada

Petitioner

VERSUS

\$ State by Station House Officer,
Mahankali Police Station, Secunderabad,
Rep., by Public Prosecutor and another.

Respondents

! Counsel for Petitioner : Sri O. Manohar Reddy.

^Counsel for respondent No.1 : Asst. Public Prosecutor
Counsel for respondent No.2 : Sri T. Nagarjuna Reddy

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? Cases referred

THE HON'BLE DR. JUSTICE D.NAGARJUN**CRIMINAL PETITIO No.1237 of 2016****ORDER:**

The petitioner/A2 has filed this petition under Section 482 Cr.P.C. to quash the FIR in Crime No.83 of 2015 registered against her and other accused for the offence under Section 420, 468, 471 and 506 read with 34 IPC.

The facts as found from the records in brief are that one B.V.L. Samba Siva Rao/respondent No.2/de-facto complainant has filed a complaint on 05.05.2015 before the Inspector of Police, Mahankali Police Station, alleging that the petitioner and others have created some documents by forging the signature of the de-facto complainant and threatening to kill him. According to the contents of the said complaint, the de-facto complainant's father by name Bandi Rama Rao has purchased 2634 square feet of office premises in the first floor of Minerva complex, S.D. Road, Secunderabad, in the joint names of complainant's father, mother - late B. Savitramma, himself and and his brother – Bandi Vijay in the year 1999. The de-facto complainant went to US and became a citizen and started living in US. Later he came to know that his brother Bandi Vijay and his sisters –

Smt. Lalapet Saradha and Smt. K. Jhansi Rani have raised disputes in respect of his share in the said property, on which he returned back to India and when he tried to spoke them, they threatened him with dire consequences. He came to know that his brother – Bandi Vijay created lease agreements and Will deed dated 10.08.1999 purportedly to have been executed by his father by way of forgery of his signature. It is stated that the de-facto complainant has submitted those two documents before the thuth labs, wherein they gave a report that the documents were forged. It is also mentioned in the complaint that at the instance of the petitioner herein and her husband – Hari Babu, they have threatened the de-facto complainant with dire consequences and therefore, sought for taking action. On the strength of the said complaint, the police has registered a case in Crime No.83 of 2015 for the offence under Sections 420, 468, 471 and 506 IPC read with 34 IPC.

During the course of investigation, the police have filed a petition before the learned Magistrate to issue summons to the petitioner and other accused to obtain their specimen signatures for sending them to forensic laboratory. In the meanwhile, the present petition is filed by the petitioner/A2.

Heard both sides and perused the record.

Now the point for determination is whether the proceedings in Crime No.83 of 2015 against the petitioner on the file of Mahankali Police Station can be quashed?

The basic ground on which the petitioner is seeking quashment of FIR is that in respect of the offence alleged against her in Crime No.83 of 2015, the de-facto complainant has already filed another complaint on 02.09.2013 before the same police and the said complaint was registered as FIR in Crime No.175 of 2013 for the offence under Section 420 and 506 IPC and after full-fledged enquiry, the police have filed final report stating that the case was being referred as “lack of evidence” and the same was accepted by the Court.

It is submitted by the learned counsel for the petitioner vehemently that once the complaint has already been filed and registered as Crime No.175 of 2013, another complaint in the year 2015 vide Crime No.83 of 2015 with the same set of facts cannot be filed and the police cannot again proceed with the investigation.

Before addressing the core issue raised by the learned counsel for the petitioner, it is to be seen that both the complaints are filed by one and the same person before the same police against the same accused. However, on careful perusal of the contents of the complaints, though the basic issue raised in both the complaints is the alleged forgery of the Will deed by the accused persons. However, there is a comparable distinction between the two complaints in respect of the offences alleged to have been committed by the accused.

The contents of the complaint filed in 2013 vide Crime No.175 of 2013 go to show that all the accused have conspired and fabricated the Will deed of his father with mala fide intention in respect of 2634 square feet of the office premises at Minerva complex, Secunderabad. In the said complaint, it was mentioned that his brother – Bandi Vijay was lured with benefits by other accused and got fabricated a Will deed dated 12.08.1999 on a stamp paper and forged his father's signature. It is also mentioned that on 25.02.2013 when the de-facto complainant visited the Minerva complex, he was stopped by 4 or 5 unsocial elements and abused him in filthy language and manhandled him and threatened him to kill if he visits Minerva complex again. So on reading of the contents of the complaint,

it is clear that the de-facto complainant though has specifically mentioned that the Will deed was created by forging of his father's signature, the other limb of the complaint also go to show that he was threatened on 25.02.2013 when he visited Minerva complex.

On the contrary, the complaint dated 05.05.2015, which was registered as Crime No.83 of 2015 go to show that his father has purchased 2634 square feet of office portion in Minerva complex, all the accused, including the brother of the de-facto complainant, have created the said document and one more document like lease agreement and also mentioned that he has got a life threat in the hands of Bandi Vijay and his sister – Sharada Devi and one Hari Babu and requested the police to take action against them. Therefore, on careful and close reading of this complaint, though de-facto complainant has mentioned that the Will deed was created by way of forgery by the accused, he has also mentioned that he was threatened by the petitioner and other accused.

In the earlier complaint i.e., Crime No.175 of 2013 the de-facto complainant was threatened by 4 or 5 unsocial elements, whereas, in the complaint i.e., Crime No.83 of 2015, he is more

specific that the petitioner and other accused have threatened him with dire consequences. The cause of action for both the complaints is two different dates, though the accused and the de-facto complainant are common. It is not uncommon that more than one complaint is filed by a person against the same accused. If the offence alleged to have been committed by the accused is a continued offence and if all the accused commits or attempt to commits similar offence again, then another fresh complaint can be filed. Therefore, considering the contents of the complaint alleging that the accused have committed certain offences, it cannot be said that both the complaints are one and the same and continuation of proceedings in respect of the second complaint amounts to abuse of the process of law.

On the basis of the submissions of the learned counsel for the petitioner and the learned Additional Public Prosecutor, the other important question that falls for consideration is whether if a complaint is filed and closed by the police for lack of evidence for same set of facts, a second complaint can be filed and whether the police can proceed with investigation of the offence, in case if they find sufficient material to proceed with.

In the case on hand, the de-facto complainant has filed a complaint on 11.09.2013 and the same was registered as Crime No.175 of 2013 and the police have filed final report on 20.02.2015, the ground on which police have closed the case is “lack of evidence”. The last para of the said final report go to show that during the course of investigation, a notice is served on the complainant to give evidence and to produce relevant documents, however, the de-facto complainant has failed to produce the same, thereby, he was contacted again and again on several occasions and notices were issued to him under Section 91(a) and 160 Cr.P.C calling him for the documents and to file independent witness, but he did not reply. The de-facto complainant was again contacted to produce certain evidence and finally in the absence of minimum required evidence, the police have recorded that the offence is not made out and filed final report referring the case as “lack of evidence”. Therefore, the reason for closure of Crime No.175 of 2013 is lack of evidence, since the de-facto complainant has not produced such evidence.

In the subsequent complaint, which was given in 2015 registered as Crime No.83 of 2015, the police are proceeding with the investigation and have filed an application before the

learned Magistrate to issue summons to the petitioner and the other accused to subscribe their signatures so that they can be sent to hand writing expert to get a report as to whether the accused have created the Will deed or not.

So, the investigation in both the crimes can certainly be comparable. In respect of Crime No.175 of 2013 is concerned, the investigation could not be proceeded with as no evidence was placed by the de-facto complainant. He himself could not appear before the police, as directed. In the later case i.e., Crime No.83 of 2015, the de-facto complainant is coming forward and the police are rightly proceeding with the case. The main question in both the complaints is the alleged forgery by the petitioner and other accused. While investigating previous crime i.e., Crime No.175 of 2013, if the police have concluded that the Will deed is not forged one, certainly the de-facto complainant cannot file another complaint on the same ground. Whether they have committed any forgery or not will be decided only during the course of investigation when the hand writing expert gives an opinion to that extent. However, in the case on hand, the petitioner herein instead of responding to the call given by the police, has approached this Court for quashment of FIR.

In the case on hand the police have not completed the investigation in both the crimes. It is not the case of the petitioner that the police in Crime No.175 of 2013 have completed the investigation and filed the charge sheet and trial was commenced and accused were found not guilty of the offence. In such a case, there is certainly merit in the case of the petitioners therein that since for the offence alleged case was already registered and the petitioners have went through the ordinal of the trial and found not guilty and for the same set of facts another complaint cannot be entertained. There is no rule that police cannot investigate twice for the same offence. In fact, Section 173 (8) Cr.P.C., permits further investigation of offence even after filing of the final report or the charge sheet, as the case may be. The police even though they have entertained two complaints for the same set of facts, could not complete even one investigation. The earlier complaint, as already observed, was closed for lack of evidence. The very purpose of which the investigation required to be done is to find the person, who has committed the offence alleged. If at all the petitioner's request is considered, it amounts that the police are prevented from investigating as to whether the accused have really committed the offence of forgery or not as alleged.

Therefore, considering from any angle, continuation of the proceedings in FIRf.No.83 of 2015 against the petitioner cannot affects the principles of double jeopardy.

Accordingly, the criminal petition is dismissed.

Miscellaneous applications, if any, shall stand closed.

DR. D.NAGARJUN, J

Date: 20.06.2022
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L.R. copy to be marked.