

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

Criminal Petition No.10984 OF 2018

Between:

Smt.Dhana Laxmi Mahadev.

...Petitioner

And

State of Telangana, rep. by
Public Prosecutor, High Court,
Hyderabad and another.

... Respondents

DATE OF JUDGMENT PRONOUNCED: 01.11.2022

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

- 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 Reporters/Journals Yes/No
- 3 Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No

K.SURENDER, J

* THE HON'BLE SRI JUSTICE K. SURENDER

+ CRL.P. No. 10984 of 2018

% Dated 01.11.2022

Smt.Dhana Laxmi Mahadev ... Petitioner

And

\$ State of Telangana, rep. by
Public Prosecutor, High Court,
Hyderabad and another ... Respondents

! **Counsel for the Petitioners:** Sri S.Viplav Simha Reddy.

^ **Counsel for the Respondents:** Sri S.Sudershan,

Additional Public Prosecutor for R1

Sri Y.Rama Rao,

Learned counsel for R2

>HEAD NOTE:

? Cases referred

HON'BLE SRI JUSTICE K.SURENDER**CRIMINAL PETITIONER No.10984 of 2018****ORDER:**

1. This Criminal Petition is filed seeking to quash proceedings in CC No.1090 of 2016 on the file of XXV Metropolitan Magistrate, Kukatpally, Miyapur, Cyberabad.

2. The case against the petitioner is that she joined as servant maid in the house of L.W.1/complainant ten years prior to the complaint in question. It is stated by the complainant that she is the founder of M/s.Mirrors Saloon and Spa, which is a proprietary concern and doing business in the Jubilee Hills area. The said firm renders services of beauty care. Several employees were trained by the complainant firm and in the said process, huge expenditure was incurred every year only for the purpose of training the employees. The *defacto* complainant has employed nearly 150 employees in his organization after training them.

3. It is alleged that the petitioner was trained with international standards and also sent to International training at London and Singapore. The service contract agreement was entered into for a

period of two years and also extended from time to time. However, the petitioner with the help of her husband and one Sudha conspired and started tarnishing the image of the *defacto* complainant. Further, they set up their own business in beauty care in Madhapur. The petitioner and another namely Sudha, who are her employees stopped attending to their duties and also filed two complaints viz., FIR No.540 of 2014 and FIR No.539 of 2014 against *defacto* complainant and also threatened to file private complaint under SCs & STs (POA) Act. The petitioner, though trained by the *defacto* complainant with the hope that she would serve the said firm and also entered into an agreement for serving the firm for a period of two years, however established her own beauty salon. The petitioner was indulging in pressure tactics to squeeze money from her and also defaming her in the society. For the reason of false promises made to serve the *defacto* complainant firm and making *defacto* complainant invest huge amounts in her training, amounts to cheating and misappropriation. Accordingly, on the basis of the complaint lodged by the *defacto* complainant, police filed charge sheet for the offences under Sections 408 and 506 of IPC.

4. Learned counsel for the petitioner submits that since the petitioner has put up her own business in 'beauty care' and since she was a competitor in the line of beauty business, complaint was filed making false allegations. For the said reason, case has to be quashed.

5. Learned Public Prosecutor submits that since the investigation is completed, charge sheet is filed, it is for the trial Court to come to a conclusion whether the offences alleged are made out or not after examining the witnesses by the trial Court. Accordingly, prayed to dismiss the petition.

6. The main allegation against the petitioner is that she got training in the field of 'beauty care' and expenditure was incurred by the *defacto* complainant to train her. However, instead of serving the firm of the *defacto* complainant, the petitioner has set up her own business and resultantly, it caused loss to the *defacto* complainant firm. The petitioner also indulged in filing false complaints which were registered and further she was threatening to defame and cause harm to the *defacto* complainant.

7. To attract an offence under Section 408 of IPC, whoever being a clerk or servant or employed as a clerk or servant, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property would be punishable for the offence under Section 408 of IPC.

8. The allegations made in the statement of *defacto* complainant and other witnesses would only go to show that the petitioner was trained at the expenses of the *defacto* complainant firm. Even assuming that the petitioner was trained at its expenditure, it would not amount to an offence of criminal breach of trust punishable under Section 408 of IPC. Admittedly, petitioner was working with the *defacto* complainant since ten years and there was a contract agreement to work with her which was renewed every two years. Even accepting the statement that the petitioner was trained at the expense of *defacto* complainant's firm and did not work in accordance with the contract, would not make out any criminal offence and the violation of any conditions of contract, the *defacto* complainant can approach civil court seeking damages.

Except stating that the firm incurred several lakhs on training the petitioner, no specific details are given. Acquiring expertise in any field after being paid for training cannot be said to be property entrusted to the said person. Admittedly no money was paid or entrusted to the Petitioner but the allegation is that expenditure for training was borne by the firm.

9. As seen from the allegations, the petitioner threatened with filing criminal cases. Admittedly, two criminal cases were already filed, which were registered. The apparent reason, which can be culled out from the circumstances and the statements of the witnesses is that the complaint was made due to business rivalry and the petitioner running business in the lines of the *defacto* complainant firm. Competition in business is common and petitioner, who has set up her own business is responsible for running her business and establishing such firm after working with the *defacto* complainant for nearly ten years, cannot in any manner be said that it amounts to either misappropriation. Further filing complaints aggrieved by any acts of a person, will not amount to criminal intimidation. Vague allegation is made that petitioner

threatened to file complaint under SCST Act. Such statements are not sufficient to attract an offence U/S 506 of IPC.

10. For the said reasons, no offence is made out on the basis of the allegations/statements made by the witnesses and consequently, the proceedings against petitioner in CC No.1090 of 2016 on the file of XXV Metropolitan Magistrate, Kukatpally, Miyapur, Cyberabad are hereby quashed.

11. Accordingly, the Criminal Petition is allowed.

K.SURENDER, J

Date:01.11.2022

Note: LR copy to be marked.

B/o.kvs

HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITON No.10984 of 2018

Date:01.11.2022.

kvs

