

*** HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

+ CRIMINAL PETITION No.237 of 2013

% 22-06-2015

Koneru Anil Kumar

....Petitioner

And

\$ The State of A.P., Rep. by the Public Prosecutor, High Court at
Hyderabad and another.

.... Respondents

! Counsel for the Appellant: Sri T. Chiranjeevi

^ Counsel for the Respondents: 1) Public Prosecutor

2) Sri Ch. Venkata Ramana

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>Head Note:

? Cases referred:

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

CRIMINAL PETITION No.237 of 2013

ORDER:

None appears for the petitioner and there is also no representation, when his name is called out. None appears for the 2nd respondent also.

None appeared when the matter is taken up on 05.06.2015 and on 12.06.2015, and the matter was adjourned to 19.06.2015.

This petition is filed for quashing the crime No.363 of 2012 registered by the Suryarao Pet Police Station, Vijayawada City, under Sections 120-B, 420 and 423 read with 34 IPC.

The 2nd respondent herein is the *de-facto* complainant. It is stated that the *de-facto* complainant is a member of Dandamudi Rajagopala Rao Stadium at Vijayawada. It is further stated that the daughter of the petitioner herein, who is alleged to be aged around 12 years, as per the date of birth details furnished by the Vijayawada Municipal Corporation, but, however, she was permitted to play Badminton (shuttle) in the age group of 10 years instead of 12 years age group and as a result, the other players who are truly below 10 years age group are not able to compete effectively with the said daughter of the petitioner herein. As a result, they are getting dispirited and disappointed. Hence, the complaint has been lodged.

I am at a loss to understand as to why the 2nd respondent has chosen to complain against the petitioner herein and his daughter by approaching the criminal Court under Section 190 read with Section 200 of Cr.P.C. As it is, this country has not produced good numbers of quality shuttle players, in particular, women players. This sport is picking up in the country in recent times because of stellar performance of few women players. In fact, the country is struggling to produce even amongst men players of the same class as that of a Prakash Padukone, a Syed Modi, Vimal Kumar or for that matter a Pullela Gopichand. In recent times, because of encouragement and patronage this sport is receiving, real good quality training facilities are made available to the Indian players. Consequently, good numbers of young players are receiving coaching and training and they are able to put up good performance. Any attempt

to discourage or dampen the spirit of such persons will produce a more disastrous consequence than anything good out of it. Participation in sports in a big way is intended to help people overcome disappointments arising out of losing games to the ultimate winners. Every sporting person is counseled to take all defeats into their stride and then march ahead duly improving ones own performance. Every defeat, it is repeatedly said, is only a stepping stone for success, which is awaiting.

In the above background, when I view the contents of the complaint of the 2nd respondent herein made against the daughter of the petitioner, I am clearly of the opinion that the 2nd respondent is intending to take away the credit from the performance of the petitioner, for no fault of hers. The complaint itself is the manifestation of jealousy and disappointment rather than stemming out of any genuine desire for setting right any faulty systems.

The complaint of the petitioner is filed under Section 190 read with 200 Cr.P.C. The learned Magistrate passed a very cryptic order mechanically forwarding the complaint to police for filing a report. Obviously, the learned Magistrate has not applied his mind as to whether a *prima facie* case is made out or not in the complaint. On any number of occasions, this Court or the Supreme Court repeatedly has been making it clear that a learned Magistrate, who is dealing with a complaint under Section 190 read with 200 Cr.P.C. has to apply his mind to find out as to whether the complaint makes out a *prima facie* case or not. Only, in the event, a *prima facie* case is made out, the complaint can be forwarded to the police for making investigation and to file a final report under Section 173 of the Code. Reasons are required to be spelt out for that satisfaction arrived at by the Magistrate. Perhaps, those reasons need not be very elaborate. Mechanically, no Magistrate can forward the complaints received to the police for investigation. Such measures would result in reducing the Court to that of a mere post office or to that of a sorting office attached to the Railway Mail Service. That is not the purpose which is sought to be achieved by the Code where provision is

made for a genuine complainant to approach the competent Court for securing redressal for his grievance, when the police failed to act in the matter.

I am, therefore, convinced that the entire exercise is an illegal one and hence, this petition is allowed.

Accordingly, this criminal petition is allowed.

Consequently, miscellaneous petitions, if any pending shall also stand dismissed.

JUSTICE NOOTY RAMAMOHANA RAO

22.06.2015

Note: L.R. Copy to be marked
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