

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.13054 of 2014

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ORDER :

This Criminal Petition is filed by Petitioner/Accused under Section 482 Cr.P.C seeking to quash the proceedings in Crime No.138 of 2014 of Narsapur Town Police Station, West Godavari which is the outcome of the report of the 2nd respondent/defacto-complainant dated 06.08.2014 registered for the offence punishable under Section 465 I.P.C.

2) The contentions of the learned counsel for the petitioner that as per the defacto-complainant he filed a complaint in Narsapur town Police Station for removing flexi boards of his father a service organization and threatened him on Vijayadasami day on 24.10.2012, that the constable P.C. No.2162 gave receipt of the complaint received which receipt is bearing No.194 in the presence of the persons Litti Bhanu Prakash and Adhikari Jnanendra Surya Prakash Swamy. Later when complainant sought for information, to his surprise, the petitioner/accused, S.I. of Police on duty did not register any crime. Said allegation is not correct for no such report is received muchless any receipt passed and even taken the allegations the alleged report no case made out and if any crime not registered other remedies left open for nothing to prosecute the petitioner as accused on that allegation muchless for the offence.

The further contention of the 2nd respondent approached Legal Services Authority, Hyderabad in Roc.No.10778/LSA/2012, dated 30.10.2012 that was forwarded to District Legal Services Authority and in turn forwarded to Mandal Legal Services Committee, Narsapur for necessary action vide Dis.No.1027, dated 07.12.2012 and Mandal Legal Services Committee registered the same as P.L.C. No.209 of 2012, dated 09.01.2013 and issued notices to the petitioner herein to attend on 19.01.2013 and he attended before the Mandal Legal Services Committee, Narsapur and after hearing, the petition was closed and not satisfied with the same, the 2nd respondent approached Honourable Lokayuktha on selfsame facts vide complaint No.2823/2012/B2 and called for a

report from the Superintendent of Police, West Godavari District by personal enquiry on the allegations against the petitioner and it was cause enquired vide report dated 28.01.2013 recommending no action required stating a reasonable precaution besides taken under law, the problem was pacified and the Superintendent of Police report to the Honourable Lokayuktha, of April, 2013 mentions of the facts and the atmosphere in Narsapur Town and of the role of father of the complainant/2nd respondent and it is there from the 2nd respondent bore grudge against the petitioner/S.I. of Police for his preventing anti-social activities in maintaining the law and order and it is after the petitioner got transferred, the 2nd respondent/complainant colluded with some police officials and managed to obtain the alleged receipt No.194 and got foisted the false crime against him, thereby the same is liable to be quashed. It is also averred that the Crime No.70 of 2013 registered against the complainant herein on the report of one Y.Hinduja for the offences punishable under Sections 384, 420 and 506 I.P.C is also the cause for his developing grouse against the petitioner. It is also submitted that there is a bar for the Crime No.138 of 2014 to register and investigate for want of sanction under Section 197 Cr.P.C. It is also the contention that had there been any truth of giving report and obtaining of receipt No.194, dated 24.12.2012, for allegedly no crime registered, the complainant could not have kept quite but for if at all for that a private complaint if not reported to higher authorities and the contention of the present crime against the petitioner while he was discharging his duties as S.I. of Police, Narsapur is abuse of process and is liable to be quashed.

3) Heard the learned counsel for the petitioner as well as the 1st respondent-State represented by the Public Prosecutor and perused the material on record.

4) Though the bar under Section 197 Cr.P.C is for taking of cognizance and the crime registered is pending for investigation and it is thereby premature to express any opinion for no bar to the investigation so far as from registering of crime under Section 154 Cr.P.C for the offence punishable under Section 465 I.P.C. and the report of the 2nd respondent by 1st respondent against the petitioner concerned since the offence punishable under Section 465 I.P.C is a non-cognizable offence and there is nothing to show the procedure

contemplated by Section 155 Cr.P.C followed by referring the factum to the Magistrate or by obtaining specific order from the Magistrate without which the Station House Officer cannot exercise any jurisdiction as a cognizable case to investigate. Thereby, the very registration of the crime is perse unsustainable, same is liable to be quashed. Even the notice not duly proved served by acknowledgement to the 2nd respondent, since the quashing of F.I.R no way bars any remedy to the 2nd respondent to proceed by filing a private complaint.

5) In the result, the criminal petition is allowed and all the proceedings relating to Crime No.138 of 2014 of Narsapur Town Police Station, West Godavari are quashed. The bail bonds of the accused, if any, shall stand closed. Consequently, miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

15.09.2015

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