

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

TUESDAY THE FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FIFTEEN

PRESENT
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL PETITION No.7193 of 2010

Between:

Putta Madhukar @ Madhu

..... PETITIONER/ACCUSED

AND

Buddarthy Buchaiah and another

.....RESPONDENTS

The Court made the following:

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL PETITION No.7193 of 2010

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. to quash the proceedings in STC.No.443 of 2008 on the file of the Judicial Magistrate of First Class, Manthani, Karimnagar District, registered for the offence under Section 506 (ii) IPC.

2. Heard the learned counsel appearing for the petitioner/accused and the learned Additional Public Prosecutor, representing the State.

3. The allegations of the 1st respondent/*de facto* complainant in brief are that he belongs to Congress Party, whereas the

petitioner/accused belongs to the rival political party. When the 1st respondent/*de facto* complainant once worked as a Sarpanch and at present he is V.S.S.Chairman. The petitioner/accused was the ZPTC Member, Manthani. On 16.11.2008 there was a function of hoisting of flag of a political party and in that function, the petitioner/accused insulted the Congress Party and also the then sitting MLA Sridhar Babu. When the 1st respondent/*de facto* complainant came to know about it, he went and asked the petitioner/accused, upon which, the petitioner/accused pushed him aside, questioned him as to why he is not coming to Manthani village and that if he visits Manthani, he threatened that he will see his end. While going away, the petitioner/accused is alleged to have threatened the 1st respondent/*de facto* complainant that he will kill him at any time.

4. On the basis of the complaint of the 1st respondent/*de facto* complainant, the case was registered in Cr.No.70/2008 of Manthani Police Station under section 506 (ii) IPC and after completion of the investigation, the charge sheet has been filed.

5. The contention of the petitioner/accused is that the allegations on the face of it are false and politically motivated. That apart, the very initiation of the criminal proceedings by the police is contrary to the provisions of the Code of Criminal Procedure, since the offence alleged under section 506(ii) IPC is a non-cognizable offence and procedure for dealing with such a case is laid down in Sec.155 Cr.P.C. It is submitted that contrary to that, the police have registered a case, investigated into and filed the charge sheet without obtaining any permission from the jurisdictional Magistrate, and hence the proceedings are liable to be quashed.

6. A perusal of the complaint clearly shows that admittedly the petitioner/accused and the 1st respondent/*de facto* complainant belong to different political parties and they had been holding responsible elected posts. The alleged offence is said to have taken place on 16.11.2008. The petitioner/accused is alleged to have pushed aside the

1st respondent/*de facto* complainant, abused him and threatened him with dire consequences, if he visits Manthani village.

7. The contention of the petitioner/accused is that the offence alleged under section 506(ii) IPC is a non-cognizable offence and without taking permission of the jurisdictional Magistrate, the police cannot investigate the same and charge sheet cannot be filed. On this ground, all further proceedings are liable to be quashed.

8. In support of the above contention, the learned counsel appearing for the petitioner/accused has relied upon two decisions of this Court in ***V.Sudhakar v. R.Rama Mohan Rao***^[1] and ***Juvvadi Raghu v. State***^[2].

9. The former decision was followed in the later decision and it is held that since the offence alleged is a non-cognizable offence, the police cannot register a crime and investigate into without obtaining the permission of the jurisdictional Magistrate under Section 155 Cr.P.C. In two authorities, cited above, all further proceedings in the criminal cases concerned were quashed.

10. Following the above two authorities, and in view of the fact that the offence alleged under section 506(ii) IPC is a non-cognizable offence and the police have registered a case, investigated into and filed charge sheet without obtaining any permission from the jurisdictional Magistrate, the proceedings against the petitioner/accused in the above STC are liable to be quashed.

11. The Criminal Petition is accordingly allowed, the proceedings in STC No.443/2008 on the file of the Judicial Magistrate of First Class, Manthani, Karimnagar District against the petitioner/accused are hereby quashed.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date:01.09.2015
Dsr

[\[1\]](#) 2005 (1) ALT (CrI.) 170 (A.P)

[\[2\]](#) 2006 (3) ALT (CrI.) 167 (A.P)