

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No. 8856 of 2015

ORDER:

This petition is filed under Section 482 of Cr.P.C. to quash the proceedings in C.C.No.900 of 2014 on the file of the II Additional Judicial Magistrate of First Class, Tanuku.

2. According to the charge sheet, on 01.04.2014 at about 11.45 p.m. when the 2nd respondent and six others were moving in the village in discharge of their election duties, they found that one ZPTC nominated candidate was campaigning on behalf of Telugu Desam Party (TDP) in Church Street. The petitioner being a Government employee in Irrigation Department at Chilakampadu Locks also participated in the campaign supporting the ZPTC member on behalf of the T.D.P. As per the instructions given by the 2nd respondent, who is the Mandal Engineering Officer, Penumantra, and the present in-charge of Flying Squad Team, Achanta Constituency, L.W.6, Borra Ramalingeswara Rao, videographed the campaign. While videographing the campaign, the petitioner came out from a crowd and obstructed L.W.6 and shouted on the Flying Squad members. Then the Flying Squad team tried to pacify the situation while saying that a Government employee shall not participate in the election campaign and it is an offence under law, since orders were duly promulgated by the election authorities. The petitioner, instead of going back, did not care the words of the Flying Squad members headed by the 2nd respondent and shouted against them, obstructed them to discharge their election duties intentionally and also threatened them with dire consequences. L.W.6 videographed the entire incident, and later, the matter was reported to the V.R.O. Subsequently, as per the instructions of the superior officers, the 2nd respondent lodged a complaint with Penumantra Police Station on 02.04.2014 which was

registered as Crime No.60 of 2014 for the offences punishable under Sections 341, 188, 353 and 506 IPC. After due investigation, the police filed charge sheet against the petitioner and the same was numbered as C.C.No.900 of 2014 on the file of the II Additional Judicial Magistrate of First Class, Tanuku.

3. The entire investigation discloses that the petitioner, who is a Government employee, participated in the election campaign, obstructed the Flying Squad members and shouted against them headed by the 2nd respondent, while they were discharging their election duties.

4. The only contention of the petitioner is that the offences punishable under Sections 188 and 506 IPC are non-cognizable, whereas the other offences punishable under Sections 341 and 353 are cognizable. But only on the complaint of the victim, the Court can proceed further, in view of Section 195 of Cr.P.C. However, under Section 156 (4) Cr.P.C., when the accused committed both cognizable and non-cognizable offences, the non-cognizable offences can also be treated as cognizable offences and the Court can take cognizance of such offences. Therefore, this contention is without any substance.

5. It is further contended that the allegations made in the complaint would not attract the offences punishable under Sections 341 and 353 IPC, since the 2nd respondent herein was not detained while moving in any direction. No doubt, the offence charged against the petitioner is only for wrongful restraint and not for wrongful confinement/detention. Therefore, the possibility of moving in other directions would not be a ground to quash the charge sheet in C.C.No.900 of 2014.

6. The next contention of the learned counsel for the petitioner is that L.W.6, Borra Ramalingeswara Rao, is only a photographer and not a public servant. Even if he is restrained from moving in any

direction, that does not amount to deterring a public servant from discharging his duties which attracts an offence under Section 341 IPC. As seen from the material, initially L.W.6 was obstructed while he was videographing the entire campaign which consists of the petitioner. But later, the petitioner obstructed both the 2nd respondent and other members of the Flying Squad including L.W.6 who is not a public servant. Therefore, obstructing the 2nd respondent and other Government servants who are members of Flying Squad prima facie constitutes an offence. Therefore, the material collected during the course of investigation by the Investigating Agency is prima facie sufficient to proceed further.

7. In any view of the matter, the material collected by the Investigating Agency during investigation made out a specific case to attract the offences punishable under Sections 188, 341, 353 and 506 IPC. Hence, I find that it is not a fit case to exercise my discretionary power under Section 482 of Cr.P.C. to quash the charge sheet in C.C.No.900 of 2014 on the file of the II Additional Judicial Magistrate of First Class, Tanuku, and the criminal petition deserves to be dismissed.

8. At the end of argument, Sri P. Rajasekhar, counsel for the petitioner, requested to dispense with the appearance of the petitioner before the trial Court. But, such relief can be granted by the trial Court itself on an appropriate application filed by the petitioner and this Court cannot pass such order without any specific application.

9. Accordingly, the Criminal Petition is dismissed. Consequently, miscellaneous petitions if any pending in the criminal petition shall also stand dismissed.

M.SATYANARAYANA MURTHY, J

29th October, 2015
cbs



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