

HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Criminal Petition No.6146 of 2014

ORDER:

In this petition filed under Sec.482 Cr.P.C, the petitioner/accused seeks quashment of proceedings in C.C.No.420 of 2013 on the file of II Additional Munsif Magistrate, Ongole.

2) The allegations are that the *defacto* complainant is working as Junior Assistant in Administrative and Budget Section in the office of Superintending Engineer, Operation Circle, APSPDCL, Annavarapadu, Ongole Town. In the year 2007 the *defacto* complainant was working as Dispatch Section in Administrative Section and the accused who worked previously as Administrative Section Officer and presently working as Personal Officer harassed *defacto* complainant both mentally and physically. He used to compel her to complete her work night times even after the office hours. He threatened her that he would put her in problems by secreting the files which were properly dispatched by her. She gave a written report to the higher officials about the harassment caused by the accused. However, he escaped the punishment by getting the excuse from Superintending Engineer. For some time he gave up his harassment towards the *defacto* complainant and later again started harassing her that if she did not act to his wish he would not leave her. When she was working in the office, the accused intentionally touched her body parts and outraged her modesty.

When she questioned his acts, he used to threaten her. At about one year back, the *defacto* complainant reported the matter to LW.6 and also gave a report to the District Collector to take action against the accused. On 21.03.2013 she approached the S.P, Prakasam District along with LW.6 and there upon her statement was recorded and Crime No.74 of 2013 was registered under Sec.354 I.P.C and investigated and charge sheet was laid and learned II Additional Munsif Magistrate Ongole, took cognizance and registered as C.C.No.420 of 2013.

3) Denying the allegations, learned counsel for petitioner sought for quashment of the proceedings on the submission that all the FIR allegations are false and frivolous and fabricated as the accused refused to pass the false claims of LTC bills of the *defacto* complainant. Learned counsel in his attempt to explain that the allegations were false submitted that as per the FIR allegations, the accused harassed her from 2007 onwards but as per the certificate issued by the Divisional Engineer, APSPDCL, Ongole dated 13.05.2013, the accused joined in the said office on 08.02.2008 and hence the question of his harassing the complainant from 2007 onwards is utter false. It is further submitted by him that neither in the FIR nor in the charge-sheet, the date, month, year and time when the accused outraged her modesty was not mentioned. It shows which falsifies the FIR allegations. Learned counsel further submitted that basing on the complaint given to District Collector, a departmental enquiry was conducted and the enquiry officer categorically held that no *prima facie* case was made out against the petitioner. He thus prayed

to allow the petition.

4) Learned Public Prosecutor vehemently opposed the petition stating that the 161 Cr.P.C statements of the witnesses would clearly show that the accused harassed complainant and outraged her modesty and whether the accused and the *defacto* complainant worked together or not in the light of the certificate purported to be issued by the Divisional Engineer, APSPDCL, has to be decided only after a full-fledged trial wherein the correctness of the certificate will be tested and that fact cannot be decided in a petition under Sec.482 Cr.P.C and therefore, petition may be dismissed.

5) In the light of above rival arguments, the point for determination is:

“Whether there are merits in this petition to allow?”

6) **POINT:** The allegations leveled in FIR are grave ones touching the outraging of modesty of a woman. The petitioner/accused seeks quashment on the ground that all the complaint allegations are utter false and motivated, since earlier he refused to pass the false claim of LTC bills of 2nd respondent. It is his further case that as per the certificate issued by Divisional Engineer, APSPDCL, Ongole dated 13.05.2013 the petitioner/accused joined in the said office on 08.02.2008 and hence question of his harassing the *defacto* complainant from 2007 onwards is myth and far from truth. The objection of learned Public Prosecutor as already stated supra is that the

ground on which the petitioner/accused seeks quashment of the proceedings may at best serve him as a good defence at the time of trial and the veracity of his defence can be decided only after a full-fledged trial but not at this stage.

7) Hon'ble Supreme Court in the case of **State of Haryana and others vs. Ch. Bhajan Lal and others**^[1] has given certain guidelines as to when the High Courts can exercise the inherent power under Sec.482 Cr.P.C to quash the proceedings to prevent the abuse of process of the Court or to secure the ends of justice. Those guidelines are as follows:

"Para 102: In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers Under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima-facie constitute any offence or make out a case against the accused.

2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers Under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

3. *Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
4. *Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated Under Section 155(2) of the Code.*
5. *Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*
6. *Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*
7. *Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.*

After giving the above guidelines, Hon'ble Apex Court cautioned thus:

“Para 103: We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the F.I.R. or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprice.”

- 8) So the facts of the present case have to be tested on the

anvil of the above guidelines. If the allegations in the FIR and the statements of the witnesses, copies of which are filed along with the petition are perused, they would throw a *prima facie* accusation against the petitioner/accused if they are uncontroverted. As such, as per the above guidelines, the proceedings cannot be quashed saying that no case is made out from the material gathered by the prosecution. No doubt, the petitioner/accused has come up with a strong defence that he never worked with the complainant and her complaint is motivated since he earlier refused to pass her false claim of LTC bills. As rightly pointed out by learned Public Prosecutor, the veracity of this defence can be decided only after a full-fledged trial but not in this petition. Therefore, in my considered view, it is not a fit case to grant quashment of the proceedings. However, if the petitioner/accused is advised, he can file discharge application before the trial Court, in which case, the trial Court shall dispose of his application on merits at the earliest without being influenced by this order.

8) In the result, this Criminal Petition is dismissed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 16.03.2015

SCS

[\[1\]](#) AIR 1992 SC 604

