

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.16170 OF 2016

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in Crime No.41 of 2016 on the file of Ramachandrapuram Police Station, East Godavari District, registered for the offences punishable under Sections 506, 509 and 323 of Indian Penal Code (for short "I.P.C.") on the following grounds:

- (1) There is a delay in lodging the complaint.
- (2) Ramachandrapuram Police has no jurisdiction to enquire into the offence.
- (3) No wound certificate is produced to establish the offence punishable under Section 323 of I.P.C.

Finally, it is contended that the allegations made in the complaint would not constitute offences on their face value and the lodging of complaint itself is an abuse of process of law and prayed to quash the proceedings.

During hearing, while reiterating the above grounds, the learned counsel for the petitioner contended that there was no explanation in the F.I.R. for the delay in lodging the same and non-production of wound certificate is fatal to the case of the defacto complainant.

The Apex Court in "***State of Haryana v. Bhajan Lal***"¹ laid down certain guidelines to exercise jurisdiction under Section 482 of Cr.P.C. According to guideline No.1 the High Court can exercise its inherent power to quash the criminal complaint where the

¹ 1992 Supp. (1) SCC 335

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.

As the petitioner approached this Court at the threshold of investigation, the petitioner must show strong circumstance that the complaint was lodged with an oblique motive and it is abuse of process of Court, but here allegations made in the complaint dated 30.03.2016 would clearly disclose that the allegations constitute the offences punishable under sections 506, 509 and 323 of I.P.C. as the petitioner made satiric comments against Rahul Gandhi and when the defacto complainant questioned the petitioner about the same, he abused the defacto complainant raising her caste name and caught hold of her neck, pressed her neck and later caught hold of her tuft, pulled her; as she raised cries, car was stopped immediately, she became unconscious and unable to move from the car.

Thus, the allegations made in the complaint on their face value would constitute offences under Section 506, 509 and 323 of I.P.C.

One of the contentions raised by the learned counsel for the petitioner is that there is delay of 2 days in lodging complaint and in fact the defacto complainant specifically explained the reasons for delay that she was shifted to private hospital immediately after the incident and treated there for one day. As she has no assistance at her residence and apprehending danger in the hands of the petitioner she complained the incident to Sk.Dargavali,

Assistant Sub-Inspector of Police. This explanation, prima facie, is sufficient for the delay occurred in lodging the complaint. However, the defacto complainant has to explain the delay during trial and if the petitioner unable to explain the delay before the trial Court, the Court may draw necessary inference and acquit the accused, but at this stage, the delay is not a ground to quash the proceedings.

Yet, the other contention of the learned counsel for the petitioner is that the defacto complainant did not produce the wound certificate. One of the offences allegedly registered against the petitioner is under Section 323 of I.P.C. i.e. causing hurt voluntarily. Hurt is defined under Section 319 of I.P.C. and it includes causing any pain. However, collection of wound certificate would arise only during investigation and the defacto complainant is not supposed to obtain the wound certificate and furnish the same along with the complainant. Therefore, at the threshold of investigation, this Court cannot look into the material to find out whether the case would end in acquittal or conviction and this Court can exercise jurisdiction under Section 482 of Cr.P.C. where the allegations made in the first information report would not constitute any offence.

The Apex Court in “**Sampelly Satyanarayana Rao v. Indian Renewable Energy Development Agency Ltd.**”² held that the disputed facts of questions cannot be gone into meticulously at the stage of deciding an application filed under Section 482 of Cr.P.C. and the Court has to confine its jurisdiction to the allegations made in the complaint or the First Information Report.

Taking into consideration of the law laid down by the Apex

² AIR 2016 Supreme Court 4363

Court in “**State of Haryana v. Bhajan Lal**” (referred above) and “**Sampelly Satyanarayana Rao v. Indian Renewable Energy Development Agency Ltd.**” (referred above) I find that the allegations would constitute offences on their face value. Consequently, the petition is liable to be dismissed.

In the result, the petition is dismissed. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

Date:22.11.2016
Ksp

