

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**CRIMINAL PETITION No.16712 of 2016**

**ORDER:**

This Criminal Petition, under Section 482 Cr.P.C., is filed to quash the proceedings in Crime No.7 of 2016 of Chaitanyapuri Police Station, Ranga Reddy District for the offences punishable under Sections 354, 324 and 506 IPC.

The petitioner is a practicing advocate and Director of Gokul Cooperative Urban Bank Ltd. On the directions of the Chairman of the bank, the petitioner, during evening hours, went to the house of the *de facto* complainant – second respondent to serve notice. Thereupon, the petitioner allegedly made an attempt to outrage the modesty of the second respondent (Ms. Kalavathi Kuncharapu) and caused grievous hurt while threatening with serious consequences. The second respondent lodged a complaint on 06.01.2016 though the incident allegedly occurred on 01.01.2016 at 16.00 hours. On the strength of the same, the Station House Officer, Chaitanyapuri Police Station, issued FIR.No.7 of 2016, for the offences punishable under Sections 354, 324 and 506 IPC, against the petitioner.

The main contention of the petitioners is that, since no confidence motion was moved against the Chairman of the Bank on 04.12.2015, the Chairman issued a direction to serve notice with an evil motive to foist a false case and in obedience to the directions of the Chairman, the petitioner

went to the house of the *de facto* complainant only to serve notice but did commit no offence, much less offences punishable under Sections 354, 324 and 506 IPC. Thus lodging of a complaint is a counter blast for moving no confidence motion against the Chairman. Therefore, investigation cannot be continued against the petitioner, since, he is a practicing advocate suffering from paralysis.

The complaint was lodged by the *de facto* complainant, second respondent, making serious allegations against the petitioner, who is one of the Director of the Gokul Cooperative Urban Bank Ltd. It is the petitioner's case that, only on the directions of the Chairman, he went to the house of the *de facto* complainant to serve notice. But, normally, the procedure to serve notice on the borrower is through peon or any other staff member. Peculiarly, the petitioner, being Director, went to the house of the borrower to serve notice. No such directions, issued by the Chairman, were brought on record but there is reference to the directions in the complaint. However, even if the petitioner visited the house of the *de facto* complainant, he is not supposed to indulge in such an activity of outraging the modesty. But, at this stage, the allegations, made in the complaint alone, have to be taken into consideration. If the allegations made in the complaint, on its face value, constitute prima facie offence against the petitioner, the Court cannot exercise its power under Section 482 Cr.P.C, to quash the proceedings in view of guideline

No.1 (**State of Haryana v. Bhajan Lal**<sup>1</sup>). However, guideline Nos.6 and 7 permit the Court to quash the proceedings if the complaint lodged is an abuse of process of Court or to wreak vengeance against the petitioner. But no material is produced to arrive at such conclusion that the complaint was lodged as abuse of process of Court or to wreak vengeance.

Investigation in Crime No.7 of 2016 is at threshold. This Court cannot normally exercise power to quash the proceedings since inherent power under Section 482 Cr.P.C. has to be exercised sparingly in exceptional circumstances and it should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard and fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. (See: **Janata Dal v. H. S. Chowdhary**<sup>2</sup>, and **Raghubir Saran (Dr.) v. State of Bihar**<sup>3</sup>).

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<sup>1</sup> AIR 1992 SC 604

<sup>2</sup> [1992] 4 SCC 305

<sup>3</sup> AIR (1964) SC 1

While exercising jurisdiction under [Section 482](#) of the Cr.P.C., it is not permissible for the Court to act as if it was a trial Court. Even when charge is framed at that stage, the Court has to only *prima facie* be satisfied about existence of sufficient ground for proceeding against the accused. For that limited purpose, the Court can evaluate material and documents on records but it cannot appreciate evidence. The Court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused. (**State Of Orissa vs Saroj Kumar Sahoo<sup>4</sup>**).

By applying the principle laid down in the above judgment, when the allegations made in the first information report or complaint taken at its face value would constitute offence against the petitioner under Sections 354, 324 and 506 IPC, and the investigation is not yet commenced, the Court cannot exercise its inherent power under Section 482 Cr.P.C. to quash the proceedings in Crime No.7 of 2016 of Chaitanyapuri Police Station, Cyberabad.

Learned counsel for the petitioner contended that the petitioner is a practicing advocate and is suffering from paralysis and produced certain material before this Court to dispense with his appearance.

Keeping in view the circumstances stated by the learned counsel for the petitioner, I deem it appropriate to issue a

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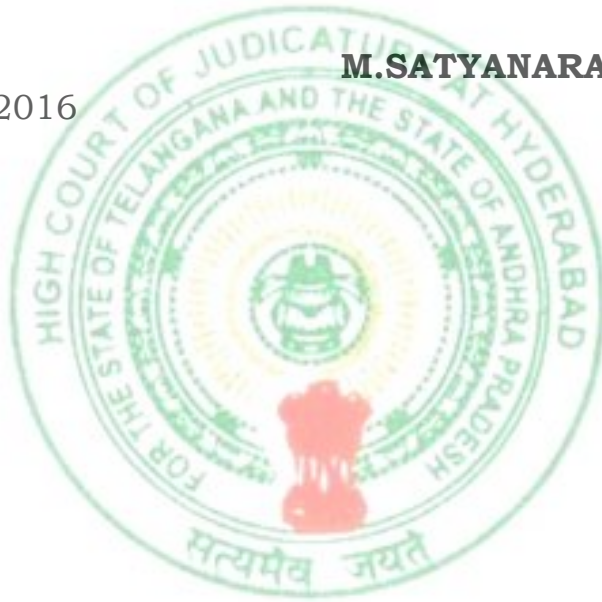
<sup>4</sup> 2005 (13) SCC 540

direction to police concerned to follow the procedure under Section 41-A Cr.P.C. and the guidelines in **Arnesh Kumar v. State of Bihar**<sup>5</sup>. The petitioner is at liberty to move appropriate Court for pre-arrest bail under Section 438 Cr.P.C. if advised.

With the above observation, the Criminal Petition is dismissed at the stage of admission. Miscellaneous petitions pending, if any, shall stand dismissed.

Date:14.12.2016  
 usd

**M.SATYANARAYANA MURTHY,J**




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<sup>5</sup> 2014 (2) ALT (CrI.) 457 SC