

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.14364 OF 2015

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the F.I.R. in Crime No.124 of 2015 on the file of Iragavaram Police Station, West Godavari District, registered for the offences punishable under Sections 448, 354 (a) and 506 of Indian Penal Code (for short "I.P.C.").

The respondent No.2/defacto complainant is no other than the elder sister of wife of the petitioner. She lodged a complaint with the police alleging that on 22.10.2015 at about 11.00 p.m. when she was inside the house along with her family members, the petitioner with dishonest intention entered into the house, abused her in filthy language, alleging that her sister is having illicit relation with her (defacto complainant's) husband and also alleged that she also moved with others before marriage, and asked her to come with him, pulled her sarre and torn her blouse, on that she raised cries.

Learned counsel for the petitioner contended that due to the disputes between the petitioner and her wife, who is the sister of defacto complainant in C.C.No.36 of 2014 pending on the file of Judicial First Class Magistrate, Tanuku, this case is falsely foisted against the petitioner.

Learned counsel for the petitioner further contended that C.C.No.36 of 2014 is ended in compromise before the Court, in such case the present F.I.R. is also to be quashed since there is no truth in the allegations.

As seen from the material on record, more particularly the contents of the F.I.R., on their face value would constitute an offence under Section 354 of I.P.C. since the petitioner pulled her saree and torn her blouse alleging that he has moved with some others before her marriage and asked her to come with him.

The jurisdiction of this Court under Section 482 of Cr.P.C. can be exercised sparingly in exceptional circumstances particularly when the allegations made in the complaint, on their face value, would not constitute any offence and there is no prima facie material to proceed against the petitioner as held by the Apex Court in “***State of Haryana v. Bhajan Lal***¹”.

Section 482 Cr.P.C. envisages three circumstances in which the inherent jurisdiction may be exercised, namely:

1. to give effect to any order under Code of Criminal Procedure,
2. to prevent abuse of the process of any court,
3. to secure the ends of justice.

The only test to be applied by the court is as to whether the uncontroversial allegations as made prima facie establish the offence to constitute an offence punishable under Section 354 of I.P.C. *prima facie*.

If the above test is applied to the present facts of the case, there is sufficient material in the allegations made in the complaint.

¹ 1992 Supp. (1) SCC 335

Learned counsel for the petitioner contended that the petitioner is working as software engineer in Hyderabad and his presence on the day of the incident is doubtful and that the case is foisted against him falsely. But those disputed questions of fact cannot be gone into while exercising jurisdiction under Section 482 of Cr.P.C. as held by the Apex Court in “**Sampelly Satyanarayana Rao v. Indian Renewable Energy Development Agency Ltd.**”²

In view of the law declared by the Apex Court in the above said judgments, it is difficult for me to accept the contention of the learned counsel for the petitioner at this stage. Therefore, I find no ground to quash the proceedings at this stage since the petitioner approached this Court at the threshold of investigation.

Accordingly, the petition is dismissed. No costs.

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

JUSTICE M. SATYANARAYANA MURTHY

Date:25.11.2016
Ksp

² AIR 2016 Supreme Court 4363