

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.16015 OF 2016

ORDER:

This criminal petition, under Section 482 of Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), is filed to quash the proceedings in Cr.No.133 of 2016 of Arundalpet Police Station, Guntur Urban, Guntur District, registered against the petitioners and two others for the offence punishable under Sections 452, 354, 323, 506, 509 read with 34 IPC, based on the reference made by the Judicial Magistrate of First Class, Guntur, exercising power under Section 156 (3) Cr.P.C.

It is the contention of the counsel for the petitioners that another Cr.No.100 of 2016 was registered by the Arundalpet Police on the complaint lodged by Rachakonda Anuradha/ first petitioner herein. The date of incident is one and the same, but there is little difference in the time of occurrence.

The time of occurrence in Cr.No.100 of 2016 is 21.45, whereas in Cr.No.133 of 2016 is 19.30. The difference of time between registration of two crimes is about two hours fifteen minutes only. But, according to the counsel for the petitioner, these two incidents occurred at one the same time.

The main ground urged before this Court by the learned counsel for the petitioner is that there is abnormal delay in lodging the private complaint and in such case, police would have rejected to register the Crime No.133 of 2016, though it was referred by the Judicial Magistrate of First Class under Section 156 (3) Cr.P.C.

In fact, the Police are bound to register the crime when reference is made under Section 156(3) Cr.P.C. and the Police have

no alternative except to register the crime and investigate into and to submit a report to the Court under Section 173 Cr.P.C., therefore, on that ground the complaint cannot be quashed.

It is also contended that the delay in filing the private complaint was not explained by the *de facto* complainant and that it is nothing but an abuse of process of the Court.

No doubt there is delay in filing private complaint before the Court, but that itself is not a ground to quash the proceedings at this stage.

If, for any reason, the *de facto* complainant failed to explain the reason for delay, the court may take note of it and pass appropriate orders, but at this stage it is not a ground to quash the proceedings. However, Cr.Nos.100 of 016 and 133 of 2016 of P.S. Arundalpet, arising out of same incident at same place and time, but with a little difference.

In view of foregoing discussion, I find no ground to exercise jurisdiction under Section 482 Cr.P.C., since the allegations made in the complaint on its face value would constitute an offence punishable under Sections 452, 354, 323, 506 read with 34 IPC.

If the allegation made in the complaint would not constitute an offence, when this court can exercise inherent jurisdiction under Section 482 Cr.P.C. to give effect to any order under Cr.P.C., to prevent abuse of the process of any court, and to secure the ends of justice.

The Apex Court in **STATE OF HARYANA VS. BHAJAN LAL**¹ laid down certain guidelines to be followed to exercise jurisdiction

¹ (1992) Supp. (1) SCC 335

under Section 482 Cr.P.C. wherein guideline No.1 is relevant to the present facts of the case, and it is extracted hereunder:

“(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.”

But here the allegations made in the complaint, on its face value, would constitute an offence punishable under Section 452, 354, 323, 506 read with 34 IPC.

Therefore, I find no ground to quash the proceedings at this stage and the criminal petition is liable to be dismissed.

At this stage, Sri D.V.Ramana Sarma, learned counsel for petitioners, requested this Court to pass an Order not to arrest the petitioners in connection with Cr.No.133 of 2016.

But, such direction is **contrary** to the principle laid down by the Apex Court in **PARVINDERJIT SINGH AND ANR. V. STATE (U.T. CHANDIGARH) AND ANR²** wherein the Apex Court while deciding the legality of direction not to arrest a person in connection within non cognizable offence as interim order, in a petition filed under Section 438 Cr.P.c., held that an interim order restraining arrest of a person charged with a cognizable offence, if passed while dealing with an application under Section 438 of Cr.P.C, will amount to interference in the investigation.

The principle laid down in the above judgment is directly applicable to the present case, for the reason that, while exercising jurisdiction under Section 482 of Cr.P.C, the Court cannot issue a

² AIR 2009 SC 502

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direction not to arrest the petitioner, since it amounts to interference with the investigation, in view of the law declared by the Apex Court.

Hence, I am unable to accede the request of the petitioners at this stage.

In the result, the criminal petition is dismissed at the stage of admission.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

Date: 16.11.2016

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M. SATYANARAYANA MURTHY, J

