

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.16142 of 2016

ORDER :

This criminal petition is filed by the petitioners/A.1 to A.3 under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') to quash the proceedings in Crime No.53 of 2015 of Chippagiri Police Station, Kurnool District, registered for the offence punishable under Section 324 read with 34 IPC.

2. The petitioners are A.1 to A.3 in the said crime and they allegedly came in Bolero vehicle bearing No.AP 02 AW 8999 and picked up quarrel in the meanwhile they beat with stick on face of Suresh and he received swelling injury and A.3 beat the son of the de facto complainant, by name Rajashekar, with a stick in the abdomen and he received a scratch injury and the accused persons abused them in filthy language. On the strength of the complaint, the above crime was registered.

3. The contention of the petitioners is that there are civil litigations pending in various Courts with regard to the property and the present crime is a lodged only with an intention to force to compromise with regard to the civil disputes and therefore, there is absolutely nothing to proceed against the petitioners and lodging such complaint and registering of crime against the petitioners is nothing but an abuse of process of Court and prayed to quash the proceedings.

4. During hearing, Sri V.Raghunath, learned counsel for the petitioners, while reiterating the contentions urged in the criminal

petition submitted that A.1 and A.2 were already granted bail and A.3 is apprehending arrest in the above crime.

5. No doubt, this Court can exercise inherent jurisdiction under Section 482 Cr.P.C. only in exceptional circumstances, sparingly, but such inherent jurisdiction can be exercised only to give effect to the order under code of criminal procedure to prevent abuse of process of any Court or to secure the ends of justice. In **State of Haryana v. Bhajan Lal**¹, the Apex Court explained the limits of jurisdiction under Section 482 Cr.P.C. and laid down the guidelines either to exercise the power or not to exercise the power under Section 482 Cr.P.C., they are as follows:

(a) 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;

(b) 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;

(c) 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;

(d) where the allegations in the FIR 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;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no

¹ 1992 Supp (1) SCC 335

prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) 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;

(g) 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.

6. The guideline No.(a) is relevant for the purpose of deciding this case and according to it, where the Court finds that the allegations made in the complaint or in the First Information Report on its face value would not constitute any offence considering its entirety the Court can exercise inherent jurisdiction under Section 482 Cr.P.C.

7. But, the allegations made in the complaint would directly pointing out the involvement of the petitioners on its face value, therefore, it is difficult to exercise inherent jurisdiction under Section 482 Cr.P.C. in the present case to quash the proceedings.

8. In **Madhavrao Jiwaji Rao Scindia v. Sambhajirao Chandrojirao Angre**², the Apex Court held that the legal position is well-settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features

² AIR 1988 SC 709

which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilized for any oblique purpose and where in the opinion of the court chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage.

9. If these principles are applied to the present facts of the case, the allegations made in the complaint on its face value would constitute the offence. Therefore, I find no grounds to quash the proceedings at the threshold, pending investigation. However, acceding the request of the learned counsel for the petitioners, the Investigating Agency / S.H.O. is directed to follow the procedure under Section 41-A of Cr.P.C. and guidelines issued in **Arnesh Kumar v. State of Bihar**³

10. With the above observation, the criminal petition is disposed of.

11. Miscellaneous petitions pending, if any, shall stand closed.

M. SATYANARAYANA MURTHY, J

22nd November 2016

mar

³ (2014) 8 SCC 273