

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.16300 of 2016

ORDER:

This Criminal Petition, under Section 482 Cr.P.C., is filed by the petitioners/A.1 and A.2 to quash the proceedings in FIR No.356 of 2016, dated 24.10.2016 of Narayanaguda Police Station, Hyderabad District, registered against them for the offences punishable under Section 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Respondent No.2 – defacto complainant lodged a complaint dated 24.10.2016 alleging that he purchased property under an Agreement of Sale dated 01.04.2016 from one B. Lakshmi Kameshwari (A.2), mother-in-law of one M. Prabhakar (A.1), who are petitioner Nos.2 and 1, respectively. Petitioner No.1 is working as Divisional Manager, United India Insurance Company. The only allegation made in the complaint is that when the petitioners along with one Mr. Nageswara Rao and Mr. Radha Shyam went to Taj Mahal Hotel, Narayanaguda, Hyderabad, for settlement with the defacto-complainant with regard to above said transaction, petitioner No.1 abused him by raising his caste name as “Mala Lanja Koduka mee dabulu evamu” and threatened to see his end, if he asks for return of his money.

3. The present criminal petition is filed by raising several contentions, mainly contending that a civil dispute is being

converted into a criminal case and that petitioner No.1 never abused the defacto-complainant by his caste name, apart from that, petitioner No.1 was not present on the date and time of the alleged incident and lodging of such a complaint is nothing but abusing the process of Court and hence sought to quash the proceedings initiated against them for the aforesaid offences.

4. Heard learned counsel for the petitioners as well as the learned Public Prosecutor and perused the material on record.

5. It is not the case of the defacto-complainant that he entered into an agreement of sale with the petitioners and when they sit together at Taj Mahal Hotel, Narayanaguda, for repayment of the amount paid to petitioner No.2 under the Agreement of Sale dated 01.04.2016, petitioner No.1 abused him by raising his caste name as “Mala Lanja Koduka mee dabulu evamu”. This has no connection with the civil dispute, if any, pending. Even if any civil dispute is pending, abusing respondent No.2 – defacto complainant by raising his caste name would certainly constitute an offence on its face value. Therefore, on the allegation that it is purely a civil dispute, the proceedings cannot be quashed.

6. It is also contended by the learned counsel for the petitioners that petitioner No.1 abused the defacto complainant in the name of caste is also false, as petitioner

No.1 was in the office at the time of the alleged occurrence of offence and to substantiate the same, he has produced the attendance sheet pertaining to 01.04.2016, which shows that he attended the office on the date of offence.

7. As seen from the contents of FIR, the date of incident was 22.10.2016 and the time of offence was at 9.00 a.m., but the office timings of petitioner No.1 are from 10.00 a.m. to 5.00 p.m. Thus, prima-facie, the incident occurred prior to the office hours of petitioner No.1, therefore, his alleged absence at the time of occurrence of offence cannot be accepted, even based on the allegations made in the FIR and the material produced before this Court. Even otherwise also, such a question of absence on the date and time of offence or presence of petitioner No.1 at somewhere else is a disputed question of fact. Since such fact is relevant under Section 11 of the Indian Evidence Act, 1872, such disputed questions of fact cannot be looked into at this stage to quash the proceedings under Section 482 Cr.P.C. Similarly, the truth or otherwise of the allegations made in the complaint cannot be decided for the limited purpose of concluding whether the allegations made in the charge sheet, prima-facie, would constitute an offence or not?

8. Though, it is the case of the petitioners that the investigation is not completed and during investigation, the police may take necessary steps against them, it is an

admitted fact that the petitioners have obtained pre-arrest bail from the Court in connection with the above offence and, therefore, there is no apprehension for them about their arrest. Even otherwise, such inherent powers under Section 482 Cr.P.C. can be exercised sparingly, only in exceptional circumstances and the Court should not exercise such power to stifle a legitimate prosecution. The High Court, being the highest Court of the State, should normally refrain from acting prima-facie any offence where the entire case rests, moreso, when evidence has not been collected and produced before the Court and the issue involved is whether factual or legal or that magnitude and an error seen in their true perspective without sufficient material, as held by the Apex Court in STATE OF ORISSA AND ANOTHER v. SAROJ KUMAR SAHOO¹. In the very same judgment, the Apex Court further held that even if the charge is framed, at that stage, the Court has to only prima-facie be satisfied about the existence of sufficient ground for proceeding against the accused and for that limited purpose, the Court can evaluate the material and the documents on record, but it cannot appreciate the evidence.

9. Similarly, as per guideline No.1 laid down by the Apex Court in STATE OF HARYANA v. BHAJAN LAL², the High Court can exercise its inherent power to quash the complaint

¹ (2005) 13 SCC 540

² 1992 Supp (1) SCC 335

under Section 482 Cr.P.C., where the allegations made in the FIR, 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.

10. Further, this Court cannot go into the evidence meticulously to analyse the case before commencement of trial to find out whether the case would end in conviction or acquittal, in view of the principle laid down by the Apex Court in MRS. DHANALAKSHMI v. R. PRASANNA KUMAR AND OTHERS³.

11. In view of the judgments cited supra, it is difficult for this Court to accept the contention of the petitioners, more particularly the absence of petitioner No.1 at the time of incident at Taj Mahal Hotel, Narayanaguda, Hyderabad, since it is a disputed question of fact. Therefore, I find no ground to quash the proceedings, at this stage and consequently, the criminal petition is liable to be dismissed.

12. Accordingly, the Criminal Petition is dismissed, at the stage of admission.

M. SATYANARAYANA MURTHY, J

02.12.2016.

Msr

³ AIR 1990 SC 494

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Msr