

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.15044 OF 2016

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), is filed by the petitioner to quash the proceedings in Cr.No.265 of 2016 of Illandu Police Station, Khammam District, registered for the offence punishable under Sections 294 (b), 420 and 506 of Indian Penal Code, 1860 (for short 'IPC').

The case of the second respondent/ *de-facto* complainant is that the petitioner herein used to borrow amount in connection with coal business and repaying the amount, thereupon, gaining confidence on the petitioner, he lent an amount of Rs.15,00,000/- in the year 2014, but the petitioner did not repay the amount despite repeated demands. While the matter stood thus, on 20.09.2016 he went to Hyderabad, on the promise made by the petitioner, to repay the amount along with three others viz., U. Upender, Naresh and B.Siva Shankar, and reached the house of the petitioner at Gayatri Nagar, thereupon latter grew wild and abused him in filthy language and later he returned to Illandu. The second respondent received a phone call threatening, from the petitioner that he will kill him in case the earlier incident occurred at Hyderabad is disclosed to any one. Basing on the said allegations, the Station House Officer, Illandu Police Station, registered the above crime and took up investigation.

The only contention before this Court is that the dispute is purely civil in nature, regarding money lending, and that no incident took place and that the Station House Officer, Illandu P.S., has no jurisdiction to register the crime against the petitioner.

The truth or otherwise in the allegations made in the complaint cannot be decided, at this stage, while exercising power under Section 482 Cr.P.C. Therefore, the alleged falsity of the allegations cannot be decided.

The basis for the complaint is non payment of Rs.15,00,000/- advanced by the *de-facto* complainant, but when the petitioner promised to repay the same, the second respondent along with three others went to the house of petitioner at Gayatri Nagar, Hyderabad, where abuse of the *de-facto* complainant in filthy language took place that is within the limits of Hyderabad.

However, at later point of time, the petitioner made a phone call to the *de facto* complainant allegedly threatening to kill him in case the incident is disclosed. Therefore, the Illandu Police has got jurisdiction, since the phone call allegedly received by the *de facto* complainant, while he was at Illandu. On this ground the proceedings cannot be quashed.

On perusal of the entire material on record, there is *prima facie* material to proceed further with the investigation. Unless this Court found on the face of the complaint that the complainant is motivated and initiated the proceeding by abuse of process of law and if the facts mentioned in the complaint

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disclose offence, *prima facie*, this Court cannot exercise power under Section 482 Cr.P.C.

Therefore, I find no ground to quash the proceedings in Cr.No.265 of 2016 of Illandu P.S. However, the Police, Illandu P.S., is directed to follow the procedure provided under Section 41-A IPC and guidelines laid down by the Apex Court in **ARNESH KUMAR V. STATE OF BIHAR¹**.

Accordingly, the criminal petition is disposed of.

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

Date: 24.10.2016
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M. SATYANARAYANA MURTHY, J



¹ 2014(2) ALT (Cri.) 457 (SC)