

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.16558 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.102 of 2016 of Vemsooru Police Station, Khammam District, registered against the petitioners for the offence punishable under Section 306 read with 34 of Indian Penal Code, 1860 (for short 'I.P.C.').

The main contention raised by the counsel for the petitioners before this Court is that the allegations made in the complaint on its face value would not constitute an offence punishable under Section 306 read with Section 34 of I.P.C. therefore sought to quash the proceedings against the petitioners.

A bare look at the complaint dated 29.11.2016, it is clear that the petitioners are responsible for the death of Pamarthi Chenna Kesavarao and he committed suicide by consuming pesticide. But there is no allegation whether he instigated or not.

However, the F.I.R. is not an encyclopedia of facts. It is only an information to the Police about the cognizable offence, to set the criminal law into motion and mere failure to give particulars about the instigation etc., is not a ground to quash the proceedings at the threshold of the investigation.

In **STATE OF ORISSA V. SAROJ KUMAR SAHOO**¹ the Apex Court held that inherent power under Section 482 of Cr.P.C. should not be exercised by the High Court to stifle a

¹ (2005) 13 SCC 540

legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard and fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage while exercising jurisdiction under Section of 482 Cr.P.C., it is not permissible for the Court to act as if it was a trial Court. Even when charge is framed at that stage, the Court has to only prima facie be satisfied about existence of sufficient ground for proceeding against the accused. For that limited purpose, the Court can evaluate material and documents on records but it cannot appreciate evidence. The Court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused etc.

In view of the law declared by the Apex Court in **SAROJ KUMAR SAHOO**'s case referred to supra, when the investigation is at fetus stage, this Court cannot quash the proceedings. Therefore, I find no ground to quash the proceedings at this stage. However, the petitioners are permitted to renew their request at appropriate stage.

At this stage, learned counsel for the petitioner requested to issue a direction to the Police, Vemsoor Police Station,

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Khamma District, to follow the procedure prescribed under Section 41-A of Cr.P.C. and the guidelines laid down by the Apex Court in **ARNESH KUMAR V. STATE OF BIHAR**².

Conceding to the request of the petitioners, the Police, Vemsooru Police Station, Khammam District, are directed to follow the procedure prescribed under Section 41-A of Cr.P.C. and the guidelines laid down by the Apex Court in **ARNESH KUMAR**'s case, before effecting the arrest of the petitioners, if applicable.

With the above observation, the criminal petition is dismissed.

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

M. SATYANARAYANA MURTHY, J

Date: 06.12.2016

Note: Issue CC in two days.
b/o.BV

² 2014(5) Supreme 324