

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.16496 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.75 of 2016 of Kakatiya University Police Station, Warangal District, registered against them for the offences punishable under Sections 447, 427, 506, 323, 504 r/w. Section 34 of IPC.

2. The 2nd respondent-defacto complainant filed a private complaint before the VI Additional Judicial First Class Magistrate, Warangal, and the same was referred by exercising jurisdiction under Section 156(3) of Cr.P.C., to Kakatiya University Police Station, Warangal District, and on the strength of the said complaint, the said police registered a case in FIR.No.75 of 2016 for the offences referred to above.

3. It is the contention of the learned counsel for petitioners that there are both civil and criminal cases pending against one another and that the present complaint was lodged before the Court with all false allegations to take vengeance against the petitioners.

4. As seen from the complaint, the petitioners trespassed into the land of the complainant and abused him in filthy

language as referred to in para-4, page-2 of the complaint dated 29.04.2016 and caused damage to his property.

5. The main ground urged by the learned counsel for petitioners before this Court during the course of hearing is that the allegations made in the complaint are all false and that the complaint is filed only as an abuse of the process of Court to take vengeance against the petitioners in view of the pendency of cases before various Courts.

6. The falsity or the truth or otherwise of the allegations made in the complaint cannot be gone into by this Court. The High Court can exercise its inherent power to quash the complaint 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 as per the guidelines laid down by the Apex Court in STATE OF HARYANA v. BHAJAN LAL¹.

7. In the instant case, the allegations made in the complaint would constitute the offences punishable under Sections 447, 427, 506, 323, 504 r/w. Section 34 of IPC. Apart from that, in view of the limited scope of jurisdiction under Section 482 of Cr.P.C., I am unable to exercise inherent jurisdiction, when the complaint facts are incomplete and the investigation is at a feotus stage, in view

¹ 1992 Supp (1) SCC 335

of the judgment of the Apex Court in STATE OF ORISSA AND ANOTHER v. SAROJ KUMAR SAHOO², wherein the Apex Court held that to quash the proceedings, at the stage of crime, by exercising power under Section 482 Cr.P.C., the Court must exercise its jurisdiction sparingly and such jurisdiction under Section 482 Cr.P.C., should not be exercised 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. While exercising jurisdiction under Section 482 Cr.P.C., it is not permissible for this Court to act as if it was a trial Court. 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. The Court is not required to appreciate the evidence to conclude whether the material produced before it is sufficient or not for convicting the accused.

8. Thus, from the principles laid down in the judgment of the Apex Court in SAROJ KUMAR SAHOO's case (supra 2),

² (2005) 13 SCC 540

this Court can exercise its jurisdiction only in certain circumstances, as referred above, but when the material is incomplete before the Court and the matter is pending for investigation, this Court cannot exercise its jurisdiction. Consequently, I find no ground to quash the proceedings exercising jurisdiction under Section 482 Cr.P.C.

9. At this stage, learned counsel for the petitioners requested to dispense with the appearance of the petitioners before the police. I am not inclined to pass any such direction. However, the police concerned are directed to follow the law laid down by the Apex Court in *ARNESH KUMAR v. STATE OF BIHAR AND ANOTHER*³.

10. Subject to the above direction, this Criminal Petition is disposed of, at the stage of admission.

M. SATYANARAYANA MURTHY, J

28.11.2016.
Msr

³ 2014 (2) ALT (Cr.) 457 SC

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