

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.15886 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 SC No.41 of 2011 pending on the file of Assistant Sessions Judge, Bapatla, Guntur District.

The petitioner is A.2 in Cr.No.122 of 2009 registered against him and another for the offences under Sections 417, 420, 376, 506 read with 34 of Indian Penal Code, 1860 (for short, 'I.P.C.'), and after completion of investigation filed charge sheet in C.C., and later it was committed to the Court of Sessions which was registered as S.C. No.41 of 2011

During hearing, learned counsel for the petitioner submits that earlier the petitioner herein filed CrI.P. No.1791 of 2015 to quash the proceedings in the said S.C. While deciding the criminal petition, this Court observed that the petitioner herein can file a petition for discharge for the aforesaid offence before the Sessions Court, if he advised. Basing on the said observation of this Court, the petitioner filed an application before the trial court under Section 227 Cr.P.C. to discharge him for the offence punishable under Section 506 I.P.C. But after analyzing the entire material on record, the learned Assistant Sessions Judge declined to discharge the petitioner for the offence punishable under Section 506 I.P.C.

The only contention of the petitioner before this Court is that the allegations made in the charge sheet would not

constitute an offence punishable under Section 506 I.P.C., since no alarm is caused in the mind of the petitioner.

The counsel for the petitioner drawn the attention of this Court to certain allegations made in the complaint by the *de-facto* complainant, which is the basis for setting the law into motion in Cr.No.122 of 2009 of Ponnuru Police Station.

But, at this stage, this Court is not required to go back and advert to the allegations made in the complaint, when the charge sheet was already filed and committed the matter to the Court of Sessions, at Guntur, and at best, this court requires to go into the charge sheet allegations against the petitioner, which would constitute, *prima facie*, an offence punishable under section 506 IPC or not.

In the charge sheet, a specific allegation was made against the petitioner, which attracts the offence punishable under Section 506 I.P.C. If this Court concluded that there is a specific allegation constituting an offence punishable under Section 506 I.P.C., it need not exercise jurisdiction under Section 482 Cr.P.C. to quash the proceedings in SC No.41 of 2011.

The jurisdiction of this Court under Section 482 Cr.P.C. is only to exercise *ex debito justitiae*, to do real and substantial justice, for administration of which alone Courts exist. Wherever any attempt is made to abuse that authority so as to produce injustice, the Court has power to prevent the abuse. It is, however, not necessary that at this stage there should be a meticulous analysis of the case before the trial to find out

whether the case ends in conviction or acquittal as held by the Apex Court in **MRS.DHANALAKSHMI VS. R. PRASANNA KUMAR& ORS.**¹ In view of the principles laid down in the above judgment, this court, at best, exercise its jurisdiction under Section 482 Cr.P.C. only to give effect to any order under this Code, or to prevent abuse of the process of any Court, or otherwise to secure the ends of justice.”

In **STATE OF HARYANA VS. BHAJAN LAL**² the Apex Court laid down certain guidelines, wherein guideline No.1 is extracted hereunder:

“(1) 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.”

Even according to guideline No.1 referred above, the duty of the Court is to look into first information report or the complaint and if they are taken at their face value and accepted their entirety, did not constitute an offence against the accused, this court can exercise jurisdiction under Section 482 Cr.P.C.

In view of the principle laid down by the Apex Court in **BHAJAN LAL**'s case, I am not inclined to quash the proceedings in S.C. No.41 of 2011 against the petitioner by exercising jurisdiction under Section 482 Cr.P.C. and the criminal petition is liable to be dismissed.

In the result, the criminal petition is dismissed.

¹ AIR 1990 SC 494

² 1992 Supp (1) SCC 335

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

M. SATYANARAYANA MURTHY, J

Date: 10.11.2016
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