

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.17150 OF 2016

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to quash the proceedings in Cr.No.90 of 2016 of Kovvur Police Station, West Godavari District, registered against the petitioners for the offences punishable under Sections 143, 147, 354,(2)(d) 352, 323, 379,,506 r/w.149 of Indian Penal Code, 1860 (for short, 'I.P.C.') and Sections 3(1)(r) (w) and 3(11)(va) of SC/ST (PoA) Act, 1989.

The second respondent lodged a complaint against the petitioners and others viz., Laxmanarao Kantamsetti, Pedda Venkanna Kantamsetti, Nagu Mudunuri, Satyanarayana Choutapalli, Yedukondalu Sunkara, Chandrayya Balam, Babi Balam, Babi Patte, Venkatesu Patte, Vasu Patte, Babumohan Kondeti, Krishna Kantamsetti, Srinu Kantamsetti, Sairam Nagireddi, Prasad Nagireddi, Nagu Kolla, Nageswararao Maddi, Sathish Cheekatla, Uma Kantamsetti, Vinay Sunkara, Kanna Yalamarathi, Durgarao Gonemadata, Peddiraju Saladi, Sivaramakrishna Nagireddi, Prasad Kolla, Nageswararao Choutapalli, Ram kantamsetti, Laxman Kantamsetti, Rambabu Choutapalli and Sattiyya Yanadi alleging that A.1 insisted the second respondent herein to satisfy his lust. On 23.09.2016 at about 7.00 P.M. when the second respondent went to fetch water from a tap in the street, the said Lakshman Rao (A.1), while sitting on a bench by the side of street, while saying that "you are beautiful and I am unable to stay away and asked her to come along with him and requested to satisfy his lust" he caught hold

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her waist and beat on her back and on one occasion, he caught hold her waist with his two hands. Likewise, he committed several unwarranted acts and humiliated her. When the same was questioned by Gollapalli Rama Lakshmi, Ampolu Appayamma, Gollapalli Sudharani and Perumalla Narasamma, A.1 and his father abused them in filthy language, raising their caste name and placed his hand on their chest and pushed them though they are females. While so, on 24.09.2016 at about 11.00 a.m. several members of Kapu caste, approximately 150 in number, armed with deadly weapons attacked on Malapalli and abused them in filthy language, beat them severely, snatched away cell phone of the second respondent and Nagi Reddy forcibly snatched the pusthela thadu of the second respondent and that they threatened to kill the members of schedule caste and rape the women of schedule caste in their presence and while threatening to report the same to whom they like. On the strength of the said complaint, the police registered a crime against the petitioners and others.

The main ground raised by the petitioners before this Court is that during investigation, the police examined several witnesses, whose statements are silent regarding the direct involvement of the petitioners and that even if the allegations made in the complaint taken on its face value it would not constitute an offence, *prima-facie*. If the statements are read with the complaint, there is absolutely no material to proceed against the petitioners herein for the offences stated above and prayed to quash the proceedings.

Undisputedly, the investigation is not yet completed, and at best, when the petitioners sought for quashing the proceedings in

Crime, the court is required to go into the allegations made in the complaint i.e. F.I.R., but not the other material to find out whether the allegations made in the complaint on its face value would constitute an offence stated above against the petitioners.

The main endeavour of the counsel for the petitioners is that in the remand report and in the statements of the witnesses recorded by the police, the respondents 2 to 5 stated that they did not identify any of these persons, but identified only few of the persons, who are not parties before this court, and therefore, they are entitled for quashment of the proceedings.

Undisputedly, the jurisdiction of this court is limited and this court can exercise inherent power under section 482 of Cr.P.C. only to give effect to the orders under this code, or to prevent abuse of process of the court or to secure the ends of justice and should not be exercised to stifle a 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. as held by the Apex Court in **STATE OF ORISSA V. SAROJ KUMAR SAHOO¹**.

If the principle laid down in the Judgment referred above is applied to the present facts of the Case, to exercise jurisdiction under Section 482 of Cr.P.C., this court need not look into the other material, except confining to the complaint. Even otherwise the material on record does not disclose anything whether the police conducted test identification parade to identify the persons involved in the above incident.

In **STATE OF HARYANA VS. BHAJAN LAL²** the Apex Court laid down certain guidelines. In guideline No.1 when the allegations made in the complaint or FIR on its face value accepting in its entirety, if it would not constitute an offence, the court can exercise such inherent power to quash the proceedings. But, here the investigation is not yet completed and hence placing reliance on the statements recorded by the police under Section 161 (3) of Cr.P.C., and the remand report of the accused, is not proper. At the same time, as held by the Apex Court in **MRS. DHANALAKSHMI v. R. PRASANNA KUMAR & ORS.³**, it is not necessary that at this stage there should be a meticulous analysis

¹ (2005) 13 SCC 540

² 1992 SUPP (1) SCC 335

³ AIR 1990 SC 494

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of the case before the trial to find out whether the case ends in conviction or acquittal.

In view of the limited powers conferred on this court, at this stage, I find specific allegation in the complaint about the involvement of the petitioners, *prima facie*, even if the allegations in its entirety are accepted, it would constitute an offence and hence the proceedings cannot be quashed at this stage.

At this stage, Sri I.V.N. Raju, learned counsel for the petitioners requested this Court to issue a direction to the police concerned, to follow the guidelines laid down by the Apex Court in **ARNESH KUMAR v. STATE OF BIHAR**⁴.

Acceding to the request by the counsel for the petitioners, I deem it appropriate to direct the Station House Officer, Kovvuru Rural Police Station, West Godavari District, to follow the guidelines laid down by the Apex Court in **ARNESH KUMAR v. STATE OF BIHAR** referred above, if applicable, before effecting the arrest of the petitioners.

Accordingly, the criminal petition is disposed of.

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

M. SATYANARAYANA MURTHY, J

Date: 28.12.2016

Note: Issue CC in a week.
b/o. BV

⁴ 2014(5) Supreme 324