

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.16886 OF 2016

ORDER:

This criminal petition, under Section 482 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to quash Preliminary Offence Report in Form 'A' No. 16/C of 2016 - 2017 Book No.344 Report No.8 dated 06.08.2016 pending on the file of Judicial Magistrate of First Class, Wanaparthy, Wanaparthy District, registered against the petitioner for the offence punishable under Sections 447, 427 and 429 of Indian Penal Code, 1860 (for short 'I.P.C.') and Section 9 read with Section 2(16)(a), Sections 39, 50, 51, 55, 57 of Wild Life Protection Act, 1972 as amended by the Wild Life (Protection) Amendment Act, 2006 alleging that the petitioners trespassed the submerged lands in Gummadam Village, Pebbair Mandal meant for Srisailem Hydral Project, the petitioners allegedly raised crop, and administered chemicals, which effects the life of wild animal etc., which is an offence punishable under the provisions of the Act.

The main contention raised by the counsel for the petitioners before this Court is that the petitioner No.1/ A.1 is only a bicycle repairer and the petitioner No.2/ A.2 belongs to different Village and they cultivated the land and administered the chemical to effect the wild animals in the back water of Srisailem Hydral Project is false, apart from that even during search of the house of the petitioners, no chemical was found

and it is further contended that they did commit no offence, but they were falsely implicated by the concerned authorities.

The jurisdiction of this Court in exercising inherent power under Section 482 Cr.P.C. is limited and in extraordinary circumstances, it should be sparingly used to give effect to any order under the code of criminal procedure, to prevent abuse of process of court. But, here the contention of the petitioners is that they are no way concerned with the offence and never cultivated the land and administered no chemical. It is a disputed question of fact it has to be decided by the court only after trial and. While exercising inherent jurisdiction, the court is not expected to examine the material meticulously to decide whether the material is sufficient to convict the accused or acquit him. Inherent power under Section 482 of Cr.P.C. should not be exercised by the High Court 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. vide Judgment of the Apex Court in **STATE OF ORISSA AND ANR. v. SAROJ KUMAR SAHOO**¹

If the principle laid down in the above Judgment is applied to the present facts of the case, this Court cannot appreciate the contention based on evidence and it is a disputed question of fact, it has to be decided by the trial court only after completion of trial. Similarly, in **STATE OF HARYANA V. BHAJAN LAL**² the Apex Court laid down certain guidelines to exercise inherent jurisdiction under Section 482 of Cr.P.C., in guideline No.1 it was held that this Court can exercise inherent jurisdiction when 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.

In the present facts of the case, the allegations made in Form 'A' No. 16/C of 2016 - 2017 Book No.344 Report No.8 dated 06.08.2016 disclosed that the petitioners committed the offences referred above and this court cannot appreciate the contention that the petitioners did commit no offence punishable under Sections 447, 427 and 429 of I.P.C.) and Section 9 read

¹ (2005) 13 SCC 540

² 1992 SUPP (1) SCC 335

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with Section 2(16)(a), Sections 39, 50, 51, 55, 57 of Wild Life Protection Act, 1972, which is a disputed question of fact. Merely because petitioner No.1 is bicycle repairer and petitioner No.2 belongs to the different Village, this Court cannot quash the proceedings by exercising inherent jurisdiction under Section 482 of Cr.P.C. Hence, I find no ground to quash the proceedings.

In the result, the criminal petition is dismissed at the stage of admission.

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

Date: 19.12.2016
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M. SATYANARAYANA MURTHY, J

