

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.15474 OF 2016

ORDER:

This criminal petition, under Section 482 of Criminal Procedure Code, 1973 (for short, 'Cr.P.C'), is filed to quash the proceedings in Crime No.503 of 2016 of Shadnagar Police Station, Mahaboobnagar District, registered for the offence punishable under Section 341 and 307 of Indian Penal Code, 1860.

It is the case of de-facto complainant, who is the second respondent herein, that he lodged a complaint with the police, Shadnagar Police Station, alleging that on 14.10.2016 at about 10.30 AM he along with Amma Swamy (Vasundara Nayar) proceeding from Palmakul to Shadnagar in Indica car bearing No.AP 10 AF 9994, when the car reached Chatanpally, one person was proceeding on the road on a white Activa two wheeler, thereupon, he blow horn and overtook the vehicle, then the petitioner allegedly abused him in filthy language and in the meanwhile, picked up a bottle of petrol, poured on the second respondent and Amma Swamy and when they questioned about his act, and later he came to know that the person, who poured kerosene on him, is Ashok Yadav resident of Chatanpally Village.

The main contention of the petitioner before this court is that he is not the person, who allegedly poured kerosene on the second respondent, and that he was falsely implicated in the belated complaint, which is lodged after 18 hours of the

incident, therefore, the proceedings in Crime No.503 of 2016 are to be quashed against him.

Undoubtedly, the incident took place at about 10.30 AM on 14.10.2016, but the complainant was lodged at 18 hours that is almost after 9 ½ hours on the same day and the delay in lodging the complaint can be explained during trial only. If the court satisfied with the explanation, the court can convict the accused on finding guilty, if there is any event to establish complicity of the accused. Therefore, delay is a question to be decided at the trial not at the stage of crime. Hence, on this ground the proceeding in Cr.No.503 of 2016 cannot be quashed.

The other contention urged before this Court is that he is not the person, who allegedly poured kerosene on the second respondent and this is also a question of fact to be decided during trial based on the evidence let in during trial. Since these two questions are questions of fact to be established during trial, the proceedings in Cr.No.503 of 2016 cannot be quashed.

In **STATE OF HARYANA v. BHAJAN LAL**¹ the Apex Court laid down seven guidelines to exercise jurisdiction under Section 482 Cr.P.C. In **MADHAVRAO JIWAJI RAO SCINDIA & ANR. v. SAMBHAJIRAO CHANDROJIRAO ANGRE & ORS.**,² the Apex Court held that, the legal position is well-settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. The same

¹ 1992 Supp.(1) SCC 335

² AIR 1988 SC 709

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principle is reiterated in **STATE OF BIHAR & ANR. VS. SHRI P.P. SHARMA & ANR.**³ By applying the principle laid down by the Apex Court, it is difficult to quash the proceedings at this stage, since the uncontraverted allegations made in complaint on its face constitute an offence.

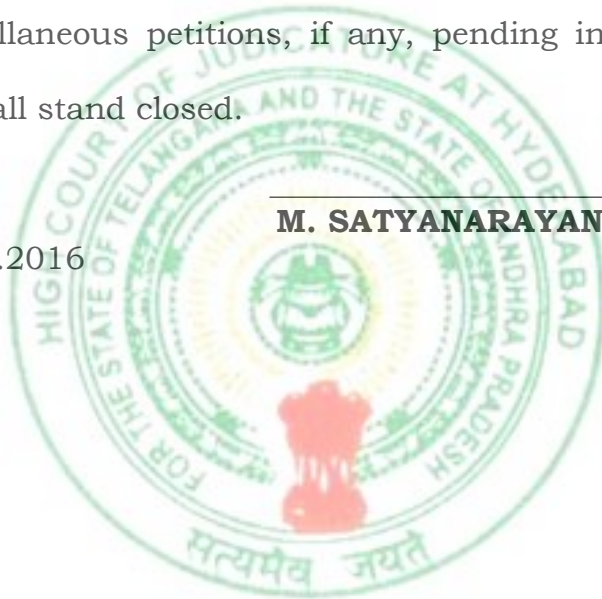
In view of the principles laid down in the judgments referred above, it is not a fit case to quash the proceedings in Cr.No.503 of 2016 of Shadnagar P.S., Mahaboobnagar District.

Hence the petition is dismissed at the stage of admission.

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

M. SATYANARAYANA MURTHY, J

Date: 31.10.2016
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³ AIR 1991 SC 1260