

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.16852 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 Cr.No.257 of 2016 of Gooty Police Station, Ananthapur District, registered against the petitioner and others for the offences punishable under Sections 323, 342, 506, read with 34 of Indian Penal Code, 1860 (for short, 'I.P.C.').

The second respondent lodged a complaint on 04.11.2016 against the petitioner and others alleging that the petitioner kicked her with legs and beat her with hands and squeezed neck with a view to kill her and that they threatened to kill her in view of disputes relating to property. On the strength of the said report, the police registered a crime against the petitioner and others for the above offences and issued F.I.R.

Now the contention of the petitioner is that the complaint was lodged with a malafide intention to claim higher share in the property of the deceased-Fathima, who died while in service as PHN in PHC Peddamandava, Ananthapur District, and he is claiming compassionate appointment, whereas all the legal heirs reported no objection to appoint him on compassionate grounds. But taking advantage of the awaiting appointment order, the present complaint is lodged making serious allegations so as to stall the proceedings appointing the petitioner as an employee in PHC.

While exercising jurisdiction under Section 482 of Cr.P.C., the court is entitled to consider the allegations made in the complaint and to find out whether those allegations on its face value on its entirety would constitute an offence or not, if those allegations on its face value would not constitute an offence, this court can exercise jurisdiction under Section 482 of Cr.P.C. and quash the proceedings, but when the allegations constitute an offence, this court cannot exercise such jurisdiction as the inherent power under Section 482 of Cr.P.C. should not be exercised by the court to stifle a legitimate prosecution and 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 482 of 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 vide Judgment of the Apex Court in **STATE OF ORISSA & ANR. VS. SAROJ KUMAR SAHOO¹**.

In the present case, investigation is not completed, charge sheet is not filed and the allegations made in the complaint on its face value would constitute an offence, in such case, this court cannot exercise inherent jurisdiction under Section 482 of Cr.P.C. in view of guideline No.1 laid down by the Apex Court in **STATE OF HARYANA V. BHAJAN LAL²**.

One of the contention raised before this court is that it is purely civil dispute. But in **INDIAN OIL CORP. VS. NEPC INDIA LTD. AND OTHERS³** a similar contention was urged before the Apex Court, wherein it was observed that the criminal litigation cannot be converted into civil litigation, however, when there is a criminality, this court cannot exercise jurisdiction under Section 482 Cr.P.C. to quash the proceedings before it. Therefore, by following the principles laid down in the above judgment, it is difficult for me to appreciate the facts at this stage regarding civil dispute and to quash the criminal proceedings.

Consequently, the criminal petition is liable to be dismissed.

In the result, the criminal petition is dismissed at the stage of admission. However, the Station House Officer, Gooty Police Station, is directed to complete investigation in Cr.No.257 of 2016 as expeditiously as possible.

¹ (2005) 13 SCC 540

² 1992 SUPP (1) SCC 335

³ 2006(6) SCC 736

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

M. SATYANARAYANA MURTHY, J

Date: 16.12.2016
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