

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.9024 OF 2016

ORDER:

This petition is filed under Section 482 of Cr.P.C. to quash the proceedings in C.C.No.262 of 2014 on the file of II Additional Judicial First Class Magistrate at Rajahmundry for the offences punishable under Sections 341, 354-A (2) and 323 I.P.C. read with 34 I.P.C.

Second respondent is the defacto complainant and petitioners herein are A.1 to A.3.

The respondent No.2-defacto complainant lodged a complaint against the petitioners alleging that they wrongfully restrained the defacto complainant and caused hurt and outraged her modesty at 4-15 P.M., near Nehrunagar, Rajahmundry on 28-3-2014 and the specific allegations made in the charge sheet are that accused No.1 was a contesting candidate as a corporater in the election and during election campaign, the first petitioner along with petitioner Nos.2 and 3 with some of her followers intercepted each other and beat the complainant and her sister with hands and caused contusions on the body and outraged her modesty in the open place. On the strength of the complaint, police registered a crime as Cr.No.210 of 2014 of I Town (L&O), Police Station, Rajahmundry for the offences in question and issued F.I.R. and later during investigation, police examined L.Ws.1 to 4 and recorded their statements under Section 161 (3) Cr.P.C. and filed charge sheet before the learned Magistrate.

The learned Magistrate took cognizance of the offences under the above provisions.

The present petition is filed mainly on the ground that the petitioners also lodged separate complaint against the defacto complainant and others insulting them being a member of Scheduled Caste and abused them raising their caste name etc. It is a counter blast to the other crime No.211 of 2016 of I Town Police Station (L&O) Police Station, Rajahmundry, which is numbered as C.C.No.63 of 2016 on the file of II Additional Judicial Magistrate of First Class, Rajahmundry for various offences including the offences punishable under the provisions of the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 and this complaint is counter blast to the complaint made by the petitioners and when such complaint is made, continuation of the proceedings is nothing but abuse of process of court and with an intention to wreck vengeance against petitioners, therefore, sought to quash the proceedings against the petitioners for the offences punishable under Sections referred above.

As seen from the allegations made in the complaint, the petitioners beat the defacto complainant and wrongfully restrained and outraged her modesty. The statements recorded by police is not filed along with the petition. However, the allegations made in the charge sheet would go to show that they caused injuries on the body of the defacto complainant. Thus, the allegations made in the complaint and in the charge sheet filed along with statements any

recorded, on its face value constitute the offences punishable under the above sections. Moreover, the contention of the petitioners is that it is a counter blast to the other crime No.211 of 2016 of I Town Police Station (L&O) Police Station, Rajahmundry, which is numbered as C.C.No.63 of 2016 on the file of II Additional Judicial Magistrate of First Class, Rajahmundry for various offences including the offences punishable under the provisions of the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act), 1989. But it appears that two groups raided against one another during election campaign and in such a case, it is difficult to quash the proceedings at this stage and filing of such complaint cannot be said to abuse of process of court on the ground that it was feted to wreck vengeance against the petitioners.

It is settled law that the inherent powers under Section 482 Cr.P.C. can be exercised sparingly in exceptional circumstances subject to certain guidelines of apex court in a decision reported in *HARYANA v. BHAJAN LAL* ⁽¹⁾ and it is pertinent to extract guideline No.1 among seven guidelines and hence, guideline No.1 is extracted as under:

“(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.”

In that view of the matter, by applying guideline No.1, when the allegation made in the complaint had constitute the offence, this

¹ 1992 Supplement (1) SCC 335

court cannot quash the proceedings. Similarly, when a complaint is made as abuse of process of court or wreck vengeance, this court can quash the proceedings.

But here, both parties made allegations against one another, on that ground, the proceedings in question cannot be quashed at this stage. The other disputed question of fact is in view of the pendency of other matter i.e., C.C.No.63 of 2016 on the file of II Additional Judicial Magistrate of First Class, Rajahmundry. Therefore, I find absolutely no ground to quash the proceedings at this stage. However, the petitioner is entitled to file appropriate application for the discharge if there is no material before the court below. Hence I find that petition is liable to be dismissed.

In the result, this Criminal Petition is dismissed at the stage of admission giving liberty to the petitioners to move appropriate application for discharge and it is left open to the petitioners to raise all the pleas before the court below.

As a sequel to the disposal of this petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE M.SATYANARAYANA MURTHY

Dated 15-12-2016.

Dvs.

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY



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Dated 15-12-2016.

Dvs