

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.17091 of 2016

ORDER

This petition under Section 482 of Cr.P.C., is filed to quash the proceedings in C.C.No.438 of 2016 on the file of Judicial Magistrate of First Class, Special Mobile Court, Kurnool, registered for the offences punishable under Sections 506, 500 read with Section 34 IPC, against the petitioners/A1 and A2.

2. One Jangam Gajula Rachaiah, the 3rd respondent, filed a private complaint before the Judicial Magistrate of First Class, Adoni, against the petitioners and the same was referred to the police under Section 156(3) of Cr.P.C. The police registered a case in Cr.No.264 of 2015 for the offences punishable under Sections 506, 500 read with Section 34 IPC.

3. The 1st petitioner/A1, by name, Jangam Mallika @ Padma, is the sister-in-law of the 3rd respondent-complainant and the 2nd petitioner, by name, Jangam Basaiah, is the father of A1. The specific allegations made against the petitioners are that the marriage between the 1st petitioner and the brother of the complainant was performed long ago. When the complainant was working in Zilla Sainik Welfare Department, the petitioners allegedly approached the employees of the department and requested to settle the dispute disclosing the differences between the 1st petitioner and his brother, but they refused to interfere with the family affairs and advised them to decide elsewhere. It is alleged in the

complaint that his brother's mother-in-law, by name, Smt Nagaratnamma, threatened his mother and the complainant to see their end. Due to their torture, his brother attempted to commit suicide on 29.08.2015 and got admitted in GGH, Kurnool, and recovered from his illness by the date of filing the complaint.

4. The main contention raised by petitioners before this Court is that the petitioners never made any defamatory statement before any of the parties either libel or slander and there was absolutely no publication of any defamatory material against the 3rd respondent and in fact, nothing was disclosed in the complaint filed by the 3rd respondent before the Magistrate, which was referred to the police.

5. The bare allegation in the complaint, at best, would disclose that the petitioners disclosed the family affairs to the employees in the office of the 3rd respondent and invited their interference to settle the disputes, but what was the statement they made to the employees is not disclosed either in the complaint or any where. Even otherwise, giving information about the family disputes to the employees and those allegations would drastically tarnish the reputation of the 3rd respondent would not constitute the offence of defamation. The word 'defamation' is defined under Section 499 of IPC as under:

“Whoever by words either spoken or intended to be read, or by signs or by visible representation, makes or publishes any imputation concerning any person intending to harm, or knowing reason or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.”

Even according to Section 499 of IPC, unless such defamatory statement is published, it would not constitute an offence. In **M.C. Verghese v. T.J. Poonan and another**¹, the Apex Court held that to constitute an offence punishable under Section 500 of IPC, publication of defamatory statement is a pre-condition. In the absence of such publication, the proceedings cannot be continued. In the facts of the said judgment, husband addressed a letter to wife making a defamatory allegation against his father-in-law. The Apex Court held that there must be publication to constitute the offence 'defamation'. If the same principle is applied to the present facts of the case, there is absolutely no material to constitute an offence punishable under Section 500 of IPC and what was the statement the petitioners made before the employees of the office of the 3rd respondent is not known. In the absence of any material and only based on bald allegations in the complaint, the petitioners cannot be proceeded further in C.C.No.438 of 2016 pending on the file of Judicial First Class Magistrate, Special Mobile Court, Kurnool.

6. The other allegation made against the petitioners is that the complainant and his mother were subjected to threat by his brother's mother-in-law, by name, Smt Nagaratnamma, to see their end. Even if such allegation is accepted, said Nagaratnamma is not a party to the complaint and none of these two petitioners did not threaten the complainant. Threatening the mother of the 3rd respondent by one Nagaratnamma, who is not a party to the complaint, would not

¹ AIR 1970 SC 1876

constitute the offence punishable under Section 506 IPC. Section 503 of IPC defines 'criminal Intimidation', as under:

"Whoever threatens another with any injury to his person, reputation or property or to the person or reputation of any one in whom that person is interested with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding this execution of such threats, commits criminal intimidation".

In the present facts, the petitioner did not commit any act as referred in the defamation of criminal intimidation. Therefore, filing of charge sheet and proceeding against these petitioners to trial before the Magistrate is nothing but an abuse of process of Court and in such case, by exercising inherent jurisdiction under Section 482 of Cr.P.C., this Court can quash such proceedings by applying guideline Nos.2 and 3, out of 7 guidelines, laid down by the Apex Court in the leading judgment in **State of Haryana v. Bhajanlal**², which are extracted hereunder:

(a) 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;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under [Section 156\(1\)](#) of the Code except under an order of a Magistrate within the purview of [Section 155\(2\)](#) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

² 1992(1) SCC 335

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under [Section 155\(2\)](#) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions [of the Code](#) or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in [the Code](#) or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

Hence, following guideline Nos.2 and 3 laid down by the Apex Court in **State of Haryana's** case, referred supra, the proceedings against the petitioners are liable to be quashed.

7. In the result, the Criminal Petition is allowed, quashing the proceedings in C.C.No.438 of 2016 on the file of Judicial Magistrate of First Class, Special Mobile Court, Kurnool, against the petitioners/A1 and A2.

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

M. SATYANARAYANA MURTHY, J

11th December, 2017

sj