

THE HONOURABLE Dr.JUSTICE B. SIVA SANKARA RAO

Criminal Petition No.6077 of 2017

ORDER :

The petitioners are the accused 1 to 3 of C.C.No.187 of 2017 on the file of the Judl.Magistrate of First Class, Vemulavada, Rajanna Sircilla District which is outcome of private complaint of the 2nd respondent taken cognizance for the offences punishable u/ sec.324,343,506,509 and 447 r/ w 34 IPC.

Heard the learned counsel for the petitioners and also the learned Public Prosecutor for the 1st respondent-State. The notice sent to the 2nd respondent-complainant by registered post to the address given in the private complaint returned with an endorsement 'as no such person', held as sufficient service.

The private complaint of the complainant and the chief examination of him recorded before the learned Magistrate at pre-cognizance stage shows the 2nd respondent-Sadanandam is resident of Vemulavada town eaking out livelihood by running tea a stall at Pajarajeshwaraswamy temple. On 25.04.2017 at about 7.20P.M., 7 to 8 persons one of them were in police uniform, remaining in civil dress came in police jeep to his house and forcibly took him in the jeep, to Vemulawada police station via bypass road bridge and after reaching police station, the inspector of Police by name A.Srinivas(A.1), Sub Inspector by name Upender(A.2), and some constables took his cell phone(Samsung prime core), silver chain with locket and Rs.200/- cash lying in his pocket. They removed his pant and shirt and tore his banian and he was beaten on his

face, left eye, cheeks and stomach by A.1 including with his boot leg and on his back shoulder and face by A.2 Upender and two persons in civil dress also beat him with lotty(stick) on hands, legs, on back of thighs and buttocks and they took him to the back side of police station. On the instructions of A.1 and A.2 to the constables not to beat before C.C.camaras, they took him to the back of the police station and beat mercilessly with lotty on his foot and they asked him about whats app messages on his cell phone and beat him and the A.1 abused in filthy language and threatened him to kill in an encounter and kept in the police station till 4.00 A.M. There was one more person Kanikarapu Srinivas in the station who fled away from police station even for that also he was beaten demanding whereabouts of K.Srinivas. On 26.04.2017 at 6.00A.M., the A.1 informed that they are opening rowdysheet against him, K.Srinivas and K.Pakesh and threatened to see the end. On 27.04.2017 police put log between his legs for which he suffered from fever and wept and police brought one R.M.P. doctor who gave injection and tablets and at 10.30A.M. his brother-in-law came and took him to house on surety on a condition to produce next day morning at 7.00a.m. and on 28.04.2017 his wife came to police station in the afternoon hours when he was enquired relating to the crime by A.2 about K.Srinivas and K.Pakesh about their collecting money and by sending Whats app messages and when he expressed ignorance, he was slapped and one constable by name Babu in police uniform beat on right side of ribs. On that day between 6 to 6.30p.m., three advocates,

one of them is Advocate-Commissioner, came to police station with search warrant. The accused persons and constables misled and misguided saying they were going to produce him before the Judge who was about to leave the station and one Babu constable took him to Mallaram Road on his motor cycle where they drunk cool drink and came back to the police station by 8 or 8.30P.M. and the A.2 abused him to implicate his wife also in cases and asked him to come to the police station on next day morning and his wife taken him to home. On 29.04.2017 at about 8.00 A.M. he went to the police station when the A.1 again abused him and threatened with dire consequences.

In fact, the sworn statement was dt.29.04.2017. The private complaint speaks of the alleged incident on 25.04.2017 at 7.20p.m. in which it was stated very briefly that he is running a tea stall at the temple area Vemulawada and the A.1 to A.5 are Inspector of Police, Sub Inspector of Police and his subordinates who came to his house and brought to police station by 7.20P.M. and on 25.04.2017 kept in illegal custody without telling anything and took his cell phone, cash of Rs.200/- and silver chain with locket and he was beaten with sticks, boot legs and hands for the past 4 days shift-wise, morning, afternoon and evening and also with threats to encounter or to implicate in cases. The L.W.1 is his wife who pleaded to stop beating but police personnel abused her and also L.W.2 Kumar and they also ill-treated him on 28.04.2017.

The quash petition filed by the Inspector of Police, sub Inspector of Police and Constable B.R.Naik, with contentions that said allegations are false. They stated that it was in the vehicle checking as usual as part of their duty, on 24.04.2017 while they were conducting breath analyzing test of drunk and drive cases, near Jagityal bus stand, Vemulavada, they observed the complainant coming on motor cycle bearing No.AP10AV 4326, he was stopped and conducted breath analyzing test and it was found that he consumed huge liquor and not in a position to control himself and with bleeding injuries of fallen somewhere and he was asked to come to police station on 25.04.2017 to book him. Keeping this in mind with vengeance and grudge against the Sub Inspector and staff, the complainant uploaded posting against the Sub Inspector and his wife in foul and filthy language in the intervening night of 24/ 25.04.2017 in whats app and facebook and such uploaded posting of the complainant in the face book, were posted likes by K.Srinivas and some others. On 25.04.2017 even the complainant did not come to police station so as to enable them to produce before the Court in the drunk and drive case, for that A.3 B.R.Naik and another constable P.C.1515 went to the complainant's house to bring him but he was not there and again in the evening, they went and found him in the house and asked to come to police station however he became furious on them and abused in filthy language including in caste name of the A.3 and tried to assault and refused to come to police station. The complainant is a criminal even involved in making false allegations

uploading vulgar postings in Facebook by defaming their reputation and thereby demanded Rs.50,000/- from Public Relation Officer, by name Chandrasekhar for removing his photograph and in this regard a complaint was lodged by said Chandrasekhar in the police station vide Cr.No.159 of 2017 u/ sec.384 r/ w511 IPC. Further the complainant uploaded postings in the Facebook blaming the Sub Inspector and family members and also tried to extract money of one lakh rupees from the Sub Inspector and Constable Naik supra which made the 2nd petitioner Sub Inspector to lodge a complaint against him and K.Srinivas vide Cr.No.160 of 2017 of Vemulavada Police Station u/ sec.67 and 67-A of IT Act. Further the complainant abused the A.3 Naik and another constable 1515 in filthy language including on caste name from which the A.3 lodged a report against him vide Cr.No.48 of 2017 for the offence punishable u/ sec.353 IPC and Section 3(1)(r) and (s) of the Schedule Caste and Schedule Tribe(Prevention of Atrocities) Act, which is also pending. It is to escape from these crimes, he engineered a false story and filed a private complaint and therefrom cognizance was taken by the learned Magistrate. It is thereby unsustainable and it is nothing but abuse of process and there is also no sanction for the alleged police officers and no any proof even.

In fact, the Whats app messages submitted as part of the quash petition averments show uploading of postings by the complainant showing as he did not consume liquor, though he stated in the vehicle check up that he is having driving licence, the police did not heed him and beat and booked a case against him;

and also another posting containing some vulgar language against the wife of the police official and many a time also abused the police officials in vulgar language. This uploading of messages in Facebook and Wahts app by the complainant containing vulgar language against the police officials and admitting his involvement in a drunk and drive case, clearly speaks that he is involved in a drunk and drive case which substantiates the quash petition averments of he was booked in a case and failed to attend on next day so as to enable them to produce before the Court by absenting himself when the police came to his house and also abusing them. The above evidence is suffice to falsify the version of the complainant and supports the case of the petitioners herein to quash the private complaint cognizance proceedings apart from the fact, had there any truth of indiscriminate beating black and blue continuously, it could be believed only when he attends before the Court by producing injury certificate issued by doctor but he did not do so and it is not even his case in the private complaint of there are visible injuries much less in his sworn statement in asking the Magistrate to refer to Doctor. Ignoring all these like without even giving of police report before filing the private complaint at least to the Superintendent of Police, injury certificate apart from want of sanction if any, the taking of cognizance for the offences supra by the learned Magistrate is unsustainable. Another constable by name Mallesh who is not a party here shown as A.4 and some unknown persons shown as A.5 in a private complaint is with no

basis since not found their names in the entirety of the private complaint.

Accordingly and in the result, the Criminal Petition is allowed by quashing the proceedings in C.C.No.187 of 2017 on the file of the Judl.Magistrate of First Class, Vemulavada, Rajanna Sircilla District and they are acquitted. Their bail bonds shall stand cancelled.

Consequently, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

Date:04.10.2017
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Dr. B.SIVA SANKARA RAO J,

