

HON'BLE SRI JUSTICE Dr. B. SIVA SANKARA RAO

CRIMINAL PETITION Nos.6022 & 6026 of 2010

COMMON ORDER:

The petitioner of the 2 quash petitions is A.1 respectively in C.C.Nos.192 & 194 of 2010 on the file of I Additional Judicial Magistrate of First Class, Dhone of Kurnool District. He is one among 14 accused in both the cases.

So far as CrI.P.No.6022 of 2010 concerned, it is outcome of crime No.126 of 2009 of Krishnagiri Police Station of Kurnool District registered for the offences punishable under Sections 143, 448, 427, 353 r/w 149 IPC. The defacto complainant therein one V. Nagalingeswara Devi, the 2nd respondent herein was the then Divisional Cooperative Officer, Kurnool, covered by C.C.No.192 of 2010.

So far as CrI.P.No.6026/2010 concerned, it is outcome of crime No.127 of 2009 registered for the offences punishable under Sections 143, 448, 427, 323, 353, 506 r/w 149 IPC of Krishnagiri Police Station. The police after investigation filed the charge sheet, which is covered by C.C.No.194 of 2010. The defacto complainant herein is one D.Brahamananda Reddy one of the directors of Krishnagiri Cooperative society.

The grounds urged common in both the quash petitions with almost similar contentions respectively are that the alleged incidents occurred on 01.10.2009 during the proceedings from the proposal of no confidence motion against one Rajashekar, President of PACS, Krishnagiri, and some people allegedly came inside the meeting hall and created unruliness, torn of the report or thrown out the minutes book and even pushing aside the police

officials or threatened the directors or the meeting postponed are incorrect. It is also contended that the petitioner is falsely implicated though he is innocent and he is a known person and the MLA by then of Pathikonda Constituency and question of not knowing for non-mentioning of his identity does not arise and he is later implicated by arrest of him on 11.01.2010 and submitted to judicial custody with remand report by such implication and for the alleged occurrence 2 crimes registered and 2 charge sheets filed and separate cognizance taken are unsustainable. It is averred that the petitioner earlier filed petitions to quash the crime proceedings wherein he is remanded by implication vide Crl.P.Nos.1573 & 1574/2010 and those were disposed of on 24.02.2010 saying charge sheet filed by police, hence if at all it is to impugn the same and it is thereby he sought for quashing of the said police final reports and taking of cognizance against him by showing as A.1 in the two cases covered by the two charge sheets respectively.

The learned Public Prosecutor representing the respondents submit that there is nothing to quash the proceedings of C.C. cases taken cognizance for nothing of illegality, but for to face trial.

Heard both matters for common disposal and perused the material on record.

So far as Crl.P.No.6022 of 2010 in continuation of what is referred supra on factual background from the report of the Divisional Cooperative Officer by name V.Nagalingeswara Devi on 01.10.2009 at about 12.30 PM in registering the crime speaks that when she attended to conduct the committee meeting of PACS, Krishnagiri, on 01.10.2009 at about 11.00 AM some persons

entered and created gallata and thrown out the minutes book and thereby the meeting was adjourned.

So far as CrI.P.No.6026 of 2010, the report of the D.Brahmananda Reddy, defacto complainant, one of the directors at about 01.00 PM on 01.10.2009 concerned he states that for the PACS Krishnagiri there was unanimous election on 23.10.2005 on behalf of congress party for the directors and among the directors one T.Rajashekar was elected as President. While so in 2009 elections, said Rajashekar supported the TDP party persons and all of them on 02.09.2009 moved a no confidence motion by giving report to the District Registrar to elect another person as President of the society and to convene the no confidence motion against said Rajashekar. On that day 01.10.2009 they all assembled and even the Nagalingeswara Devi, the Divisional Cooperative Officer, Kurnool, also came and when they were going to convene the meeting to pass a resolution of no confidence motion against him, it was at about 11.30 AM they all signed the no confidence motion to be given to the District Cooperative Officer and while so could not even in the presence of the police officials, for the Pathikonda MLA, K.E. Prabhakar, one K.E. Chandra Sekhar Goud, E. Sreenu, K.E. Seshadri, Saddala Laxmaiah, S. Eswaraiah, B. Shyam, E.Y. Rangaiah, S. Madhu, K.E. Maddilety, P. Rangadu, B. Rajasekhar, B. Ravi among others taken from their hands the no confidence motion signed by them and torned the same and attacked and bet them with chains and threatened to kill and there is life threat to them. The Divisional Cooperative Officer was also threatened and hence to take action.

The police final report from the report of D.Bhramananda Reddy supra of the crime No.127/2009 covered by quash petition Crl.P.No.6026/2010 concerned, speaks from the investigation only the selfsame facts mentioning LW.1-defacto complainant and the other Lws.2 to 8 are the cooperative society directors and Lws.9 to 12 neighbours of the society and Lws.13 & 14 are police constables and LW.16 photographer who photographed the scene of offence and the investigation makes out a case against accused persons for said offences. The part II case diary at best reiterated the same from said versions of Lws.2 to 7. From the above so far as the attracting of the offence under Section 448 IPC concerned, which is undisputedly to the public office PACS and so far as any mischief under Section 427 IPC concerned to attract the offence it must be shown as worth above Rs.50/- otherwise from the proposal of no confidence motion duly signed to give that was allegedly torned by any of them among the group formed as unlawful assembly and only Section 426 IPC that apply and even from the report of said Nagalingeswara Devi, Divisional Cooperative Officer, what she states including from the police final report after investigation therein shows that some persons entered and created a scene and thrown out the minutes book and the meeting was postponed and there is nothing to show any assault or criminal force against the Divisional Cooperative Officer to deter her from discharging of her duty, as criminal force defined under Section 350 IPC says use of force in order to commit an offence against that person or to cause or likely to cause injury, fear or annoyance to the person against whom force is used and so far as assault defined in Section 351 IPC concerned there must be an apprehension by use of criminal

force and mere words do not amount to assault so also by any gestures or preparations. Thus the offence under Section 353 IPC is no way applicable so also the offence under Section 448, 427 IPC, but for and at best the offences under Sections 323, 426 & 506 IPC r/w 149 IPC.

So far as C.C.No.194 of 2010 concerned including against the petitioner/A.1 thus to that extent the Criminal Petition can be allowed.

So far as C.C.No.192 of 2010 covered by Crl.P.No.6022/2010 outcome of crime No.126 of 2009 it is for the selfsame incident covered by crime No.127 of 2009 and C.C.No.194 of 2010 discussed supra and registered a separate crime without mentioning as to against whom and for the same occurrence if at all since covered by crime No.127 of 2009 supra is unsustainable, thereby the Criminal Petition is to be allowed by quashing the proceedings so far the offences supra.

Accordingly and in the result, the Criminal Petition No.6022/2010 is allowed by quashing the proceedings against the accused and the Crl.P.No.6026/2010 is allowed in part as indicated above.

Consequently, miscellaneous petitions, if any shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 25.10.2017
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