

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.11117 OF 2015

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (Cr.P.C.) to quash the proceedings in PRC No.10 of 2015 on the file of Judicial First Class Magistrate, Amadalavalasa, Srikakulam District, in Crime No. 89 of 2014 of Amadalavalasa Police Station for the offences punishable under Sections 147, 149, 341, 307 r/w Section 34 IPC.

2. The second respondent lodged a complaint initially against all the accused and after investigation, the police filed charge sheet before the Judicial Magistrate against Chigurupalli Annaji Rao, Suvvari Joginaidu, Pedda Laxmunaidu, Pedda Eswara Rao, Sanapala Appalanaidu and Chigurupalli Papa Rao. The other persons viz., Chigurupally Syamala Rao, Kondipatruni Narayana Rao and Peddada Eswara Rao, were charged for various offences. The second respondent/de-facto complainant filed a memo before the Magistrate informing that he does not file the protest petition. But subsequently, consequent to the said agreement, instead of filing protest petition filed a private complaint and the Court took cognizance and committed the case to the Sessions Court against all the accused and now the matter is at the stage of PRC.

3. Learned Public Prosecutor contended that at the PRC stage, the proceedings cannot be quashed and relied on the judgment of the Apex Court in **Umesh Kumar v. State of Andhra Pradesh**¹.

¹ (2013)10 SCC 591

4. In “**Umesh Kumar v. State of Andhra Pradesh**” (referred supra), the Apex Court relying on “**State of Bihar v. P.P. Sharma**²” held that quashing of proceedings at P.R.C. stage amounts to “killing a still born child” and declined to quash the proceedings since it is pre-mature.

5. The main contention of the learned Public Prosecutor is that the duty of the Magistrate is to commit the case if the Court finds that the offence allegedly committed by the accused is triable by Court of Sessions, exclusively, and it is also the duty of the Magistrate to examine the material placed on record produced along with charge sheet under Section 173 of Cr.P.C. and virtually no proceedings are deemed to be pending before the Magistrate except calling for appearance to execute bonds by the accused. At this stage, it is difficult to exercise power under Section 482 of Cr.P.C. since it is pre-mature. However, the Apex Court in the said judgment observed that before taking cognizance, the Court cannot quash the proceedings by exercising power under Section 482 of Cr.P.C.

6. In the present facts of the case, the Magistrate registered the case as P.R.C. and now it is pending before the Magistrate for completing the process under Section 209 of Cr.P.C. In such case, it is difficult to quash the proceedings at this stage. However, liberty is given to the petitioners to renew their request after the case is committed to the Sessions Division if the Magistrate finds that it is exclusively triable by a Court of Sessions.

7. With the above observations, the petition is dismissed as pre-mature while granting liberty to the petitioners to renew their

² AIR 1991 SC 1260

request at appropriate stage. No costs. Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE M.SATYANARAYANA MURTHY

Date: 22.11.2017
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