

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5366 OF 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused in S.C.No.404 of 2016 on the file of the Additional Assistant Sessions Judge, Karimnagar.

2. Learned counsel for the petitioner submitted that the trial Court without applying its mind has taken the cognizance of the offence against the petitioner. He further submitted that the trial Court ought not to have taken the cognizance for non-filing the medico legal certificate issued by the duty doctor. ***Per contra***, learned Assistant Public Prosecutor submitted that the allegations made in the complaint *prima facie* sufficient to proceed further. He further submitted that there are no grounds to quash the proceedings against the petitioner.

3. A perusal of the record reveals that basing on the complaint lodged by the 2nd respondent, Station House Officer, Karimnagar P.S. registered a case in Cr.No.260 of 2016 for the offences punishable under Sections 448, 354, 323 and 506 IPC. After completion of investigation, the Investigating Officer laid charge sheet against the petitioner for the offences stated above. The learned Additional Judicial Magistrate of First Class, Karimnagar, by strictly adhering to the procedure contemplated under the Cr.P.C., has taken the case on file and numbered it as PRC No.79 of 2016 and committed the case to the District and Sessions Division, Karimnagar. The learned District and Sessions Judge, Karimnagar, has taken the case on file for the offences punishable under Sections 448, 354, 323 and 506 IPC and numbered it as S.C.404 of 2016.

4. I have carefully scanned the material placed before this Court. There is no flaw in the investigation conducted by the Investigating Officer. The learned Magistrate strictly adhered to the procedure contemplated under Cr.P.C., and has taken the case on file for the offences stated above, numbered it as PRC No.79 of 2016 and committed the case to the District and Sessions Judge, Karimnagar. A perusal of the record further reveals that the District and Sessions Judge, Karimnagar, has considered the material placed before him and after satisfying himself, numbered it as S.C. No.404 of 2016.

5. In order to appreciate the contentions of the learned counsel for the petitioner, this Court is placing reliance on the following decisions:

(1) **Madhu Limaye Vs State of Maharashtra**¹, wherein the Hon'ble apex court held thus:

“At the outset the following principles may be noticed in relation to the exercise of the inherent power of the High Court which have been followed ordinarily and generally, almost invariably barring a few exceptions:-

- (a) That the power is not to be resorted to if there is a specific provision in the Code for the redress of the grievance of the aggrieved party;
- (b) That it should be exercised very sparingly to prevent abuse of process of any Court or otherwise to secure the ends of justice.
- (c) That it should not be exercised as against the express bar of law engrafted in any other provision of the code”

(2) **Padal Venkata Rama Reddy @ Ramu V Kovvuri Satyanarayana Reddy**², wherein the Hon'ble apex Court held thus:

“It is well settled that the inherent powers under Section 482 Cr.P.C. can be exercised only when no other remedy is available to the litigant and not in a situation where a specific remedy is provided by the statute. It cannot be used

¹ AIR 1978 SC 47

² 2011 (2) ALD (CrI.) 948 (SC) = (2011) 12 SCC 437

if it is inconsistent with specific provisions provided under the Code (Vide Kavita v State, 2000 Cr.L.J. 315 (Delhi) and B.S.Joshi v State of Haryana, 2003 (1) ALD (Cr).842 (SC) = (2003) 4 SCC 675 = AIR 2003 SC 1386= 2003 AIR SCW 1824). If an effective alternative remedy is available, the High Court will not exercise its powers under this section, especially when the applicant may not have availed of that remedy.”

(3) **Amit Kapoor v Ramesh Chander** ³, wherein the Hon’ble Apex Court held as follows:

27.2 The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith *prima facie* establish the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the court may interfere.

27.3 The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.

27.4 Where the exercise of such power is absolutely essential to prevent patent miscarriage of justice and for correcting some grave error that might be committed by the subordinate courts even in such cases, the High Court should be loath to interfere, at the threshold, to throttle the prosecution in exercise of its inherent powers.

(4) **Umesh v State of Kerala** ⁴, wherein the Hon’ble apex Court at Paras 2, 4 and 6 held as follows:

2. The appellant is aggrieved by the refusal on the part of the High Court in quashing the criminal proceedings now pending before the Judicial Magistrate, First Class, Chavakkad in CC Nos.289/1996 and 280/1996. The appellant is accused No.5 in both the cases.

4. We find it difficult to appreciate the contention. Even if all contentions taken by the appellant are taken on their face value also, it is for the Magistrate concerned to consider those contentions in an appropriate application filed under Section 239 of the Cr.P.C.

6. We direct the learned Magistrate to consider the applications, if any filed, having regard to the contentions taken by the appellant and dispose of the same, in accordance with law.

As per the principle enunciated in the cases cited supra, if the material placed before the Court is not *prima facie*

³ (2012) 9 SCC 460

⁴ (2017) 3 SCC 112

sufficient to proceed further against the accused, the court can quash the proceedings by exercising the jurisdiction under Section 482 of Cr.P.C.

6. Let me consider the facts of the case, in the light of the above legal principles. As per the allegations made in the charge sheet, the petitioner-accused entered into the cabin of the second respondent-*de facto* complainant and beat him on the ground that he has not paid salary to the wife of the petitioner. In the meanwhile, a clerk by name Padmavathi entered into the cabin and questioned the behaviour of the petitioner. Then the petitioner pushed her aside by pressing on her neck. On hearing the galata, the wife of the second respondent, who is the Principal of the School, entered into the cabin. The petitioner indecently behaved with the wife of the second respondent. As observed earlier, neither the Investigating Officer nor the learned Judicial Magistrate or the District and Sessions Judge has committed any illegality or irregularity. At this stage, the court cannot weigh the material available on record in order to ascertain whether such material is sufficient to convict the accused or not. The only point to be considered is whether the material available on record is *prima facie* sufficient to proceed further against the accused or not. The allegations made in the charge sheet are *prima facie* sufficient to proceed against the petitioner. There are no grounds much less valid grounds to quash the proceedings against the petitioner.

7. Having regard to the facts and circumstances of the case and also the principles enunciated in the cases cited *supra*, I am of the considered view that it is not a fit case to quash the proceedings while exercising the jurisdiction under Section 482 Cr.P.C.

8. Accordingly, the Criminal Petition is dismissed. Miscellaneous petitions, if any pending in this petition shall stand closed.

T.SUNIL CHOWDARY, J

DATED: 10-07-2017

Hsd

