

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.54 OF 2017

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), is filed to quash the proceedings against the petitioner/A.1 in C.C. No.695 of 2016 pending on the file of IX Additional Metropolitan Magistrate, Hyderabad, for the offence punishable under Section 420 read with Section 149 of Indian Penal Code, 1860 (for short 'I.P.C'). and Sections 3, 8 and 10 of Andhra Pradesh Prevention of Malpractice Unfair Means Act, 1997.

The specific allegation made in the petition is that out of personnel grudges, he was implicated in the above crime and that there is no material to establish his involvement either directly or indirectly in the above offence and in the absence of any material, he shall not be proceeded for the said offence and prayed to quash the proceedings.

In **STATE OF HARYANA V. BHAJAN LAL**¹ the Apex Court laid down certain guidelines and according to guideline No.1, 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, the court can exercise inherent jurisdiction to quash the proceedings. Similarly according to guideline No.7, where a criminal proceeding is manifestly attended with mala fide and/or where

¹ 1992 SUPP (1) SCC 335

- 2 -

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, the court can quash the proceedings by exercising jurisdiction under Section 482 of Cr.P.C.

The allegations made at second paragraph in page 4 are extracted hereunder for better appreciation:

“As per the investigation done and evidence collected, it is established that the accused A.1 Suresh Goud owner of Spoorty Degree College Ramanthapur, Hyderabad along with A.2 to A.7 hatched a plan to earn easy money by way of cheating the University by unfair means, by doing malpractice in the Kakatiya University Distance Supplementary Exams scheduled from 22.02.2016. In due course A.1 and A.2 obtained question papers and answer sheets pertaining to Kakatiya University Distance Supplementary Exams from A.3) V.S.Narender Goud and A.7) D.Shetty Roshan, whereas A.4 B.Chandra Shekar used to act as Courier and A.5) M.Venkatesh Prasad and A.6) T.Surya Babu used to procure prospective students for perusing graduation in easy way by unfair means of Malpractice. Thereby used the L.W.10 to 12 (unemployed preparing for competitive exams at A.5 and A.6) to write the exams at Padmashali Bhavan, Narayanaguda on the name of other students by cheating and misleading them as they were writing assignment as a part of Preparation for Competitive Exams. As such in due course on 25.02.2016, while they were in execution of their plan of cheating by unfair means by doing malpractice in the Kakatiya University Distance Supplementary Exams they were apprehended by the L.W.1 and his team and upon their confession, seized the 1) 15 UG written answer sheets of Kakatiya University, 01 un-used booklet of UG, 2) question papers-13 No's i.e. Telugu 2nd year, Code No.6166/9, 2) Hindi 2nd year Code No.5554/9, 3)

Sanskrit 2nd year Code No.5558/9, 3) 05 Nos. of text books all books were published by Kakatiya University, 4) Net cash of Rs.32,000/- (500 x 64=32,000), seized 13 Answer booklets, seized 35 answer sheets and also 04 unused answer booklets from their instance and handed over to the Narayanaguda PS.”

This specific allegations made in the charge sheet would disclose the involvement of the petitioner/A.1 in the above offence along with other accused. When the charge sheet is filed, while deciding application under Section 482 of Cr.P.C., this court, at best, can peruse the allegations made in the charge sheet to satisfy *prima facie* about the existence of any grounds, to proceed further and for that limited purpose only, the court can evaluate the material documents on record, but it cannot appreciate the evidence. Undisputedly, the jurisdiction of this court is limited and this court can exercise inherent power under section 482 of Cr.P.C. only to give effect to the orders under this code, or to prevent abuse of process of the court or to secure the ends of justice and should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a *prima facie* decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard and fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage while exercising

jurisdiction under Section of 482 Cr.P.C., it is not permissible for the Court to act as if it was a trial Court. Even when charge is framed at that stage, the Court has to only *prima facie* be satisfied about existence of sufficient ground for proceeding against the accused. For that limited purpose, the Court can evaluate material and documents on records but it cannot appreciate evidence. The Court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused etc. as held by the Apex Court in **STATE OF ORISSA V. SAROJ KUMAR SAHOO**². At the same time, in **MRS. DHANALAKSHMI v. R. PRASANNA KUMAR & ORS.**³, it was held that it is not necessary that, at this stage, there should be a meticulous analysis of the case before the trial to find out whether the case ends in conviction or acquittal.

In view of the law declared by the Apex Court in the two judgments referred above, at best, this court has to limit its analysis based on the allegations made in the charge sheet and the documents, if any, filed along with the charge sheet not the defence set up by the petitioner/A.1. Here the petitioner/A.1 set up specific defence that he never involved any such offence and that he was falsely implicated due to personal grudges. Thus, there is nothing to show *prima facie* that he was falsely implicated in the above crime for the offences punishable under Sections referred above.

² (2005) 13 SCC 540

³ AIR 1990 SC 494

- 5 -

Therefore, I find no ground to exercise inherent jurisdiction under Section 482 of Cr.P.C. and consequently the criminal petition is liable to be dismissed.

Accordingly, the criminal petition is dismissed at the stage of admission.

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

M. SATYANARAYANA MURTHY, J

Date: 05.01.2017
BV

