

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

CRIMINAL PETITION No.17399 of 2016

ORDER:

The petitioner is A.10 of C.C.No.180 of 2016 on the file of IV Additional Chief Metropolitan Magistrate Vijayawada, is the Inspector of Police. The 1st respondent is the complainant, party in person, by name N.Satyanarayana. The learned Magistrate has taken cognizance on the private complaint of the 1st respondent herein-complainant against 11 persons as A.1 to A.11 viz., the Bajaj Auto Finance Company Limited represented by its Chairman-A.1, Rahul Bajaj-A.2, the Chairman, Sanjiv Bajaj-A.3, Managing Director, the Branch Manager-A.4, one Borra Arun Kumar-A.5, Nanduru Venkata Tandava Krishna-A.6, M. Ravi Kumar-A.7, P. Srinivas-A.8, P. Murali Rama Krishna-A.9, K. Hanumantha Rao (A.10/petitioner) and G. Uma Maheswara Rao-A.11 and so far as A.5 to A.11 it is mentioned that A.5 to A.7 also belong to A.1 company, A.8 is mediator to the panchanama and A.9 to A.11 are police officials in registering the crime No.511 of 2010 and investigation of the case and filing of the charge sheet in C.C.No.706 of 2010 taken cognizance by the learned Magistrate of whom A.9 registered the FIR and investigated in part, A.10 also conducted investigation and ultimately A.11 who finalized the investigation and filed the final report in the form of charge sheet. It is in saying the investigation conducted by them is biased one instead of filing referred report by filing report as false to discharge him from accusation. As though it is part of their official duty it is exceeding the limitations of no sanction is required to prosecute them under Section 197 Cr.P.C. as crime registered on the report

of the A.5 is false so also the investigation and filing of final report for taking cognizance and putting them to trial of him as accused saying of with evil design and that they are liable for defamation for the offence under Section 500 IPC in causing loss of reputation and also financial loss to the complainant and award compensation against them.

It is the private complaint of the complainant dated 26.10.2015 that was taken cognizance. The impugned cognizance order of the learned Magistrate speaks the private complaint filed referring to offences punishable under Sections 109, 193, 195, 499, 500, 506 & 120-B IPC. The complainant Satyanarayana was maintaining flex printing business at Gandhi Nagar, Vijayawada, in the name and style of Satya Digitals with business reputation in that locality. A.5 who is the collection manager of A.1 company gave a false report against the complainant Satyanarayana to Patamata Police Station on 31.07.2010 vide crime No.511 of 2010 for the offence under Section 420 IPC and after investigation charge sheet is filed and taken cognizance by the learned Magistrate as C.C.No.706 of 2010 of the accused with evil intention seized one colour TV, one fridge with the help of goondas and put him in problems and he was prosecuted for 5 years from August 2010 to 2015 that damaged his reputation and the entire prosecution case is based on surmises and he was acquitted for no positive proof for the offence under Section 420 IPC and the accused are thereby liable of the above offences. He deposed the above facts in the sworn statement and on perusal of the same it makes out a prima facie case against A.1 to A.7 only for the offence under Section 500 IPC and no offence made out against A.8 much

less against A.9 to A.11. The complainant having been aggrieved by the impugned order of the learned Magistrate on 04.03.2016 filed revision CrI.R.P.No.29 of 2016 before the XIII Additional District & Sessions Judge (FTC), Vijayawada, for not taking cognizance for all Sections of law against A.8 to A.11 and the learned Sessions Judge allowed the revision to take cognizance for the offence under Section 500 IPC against A.8 to A.11 also. It is the same now impugned herein.

The contentions in the quash petition so far the petitioner/A.10 are that he is innocent and discharged his duties lawfully in part investigation of the case and the learned Magistrate is right in holding no offence made out against A.8 to A.11 and learned Sessions Judge went wrong in setting aside the order for taking cognizance for the offence under Section 500 IPC against A.8 to A.11 also along with A.1 to A.7. It is A.5 who has presented the report to the Patamata Police who registered the crime No.511 of 2010 for the offence under Section 420 IPC against said Satyanarayana and the police after investigation filed charge sheet and the learned Magistrate taken cognizance for the offence under Section 420 IPC by allotting C.C.No.706 of 2010 and the case ultimately ended in acquittal and against the acquittal judgment, A.5 the original defacto complainant filed criminal appeal and the appeal is still pending before the XII Additional District & Sessions Judge (FTC), Vijayawada. There is no offence including to take cognizance for the offence under Section 500 IPC made out against the petitioner, leave about others and there is no sanction obtained which is required from the very complaint averments show it is in discharge of official duties the part of the investigation of the

crime, duty bound done and thereby the proceedings are liable to be quashed.

The complainant as 1st respondent to the quash petition placed on record the quash petition filed by A.1 to A.4 in CrI.P.No.5798 of 2016 covered by the order dated 22.12.2016 and the order of another bench of this Court allowed the same quashing the said C.C. proceedings of C.C.No.180 of 2016 for the offence under Section 500 IPC. So far as against A.1 to A.4 by saying the complaint to take cognizance by learned Magistrate even against A.1 to A.7 is hopelessly barred by limitation apart from it the allegations made even taken on face value do not make out any prima facie case against any accused and no way discloses any cognizable offence justifying investigation or for learned Magistrate to permit or to take cognizance from reading of the allegations in the complaint and the allegations are inherently improbable apart from bar of limitation which is legal bar and the criminal proceedings are is manifestly attended with malafide and 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 and particularly the guidelines Nos.1, 6 & 7 of **State of Haryana v. Bhajan Lal**¹ squarely applied to the case on hand to say that the complaint is barred by limitation even for the offence under Section 500 IPC concerned, it is observed that the commencement of limitation even taken from date of acquittal to the date of taking of cognizance on private complaint it is more than 3 years and for the offence under Section 500 IPC it is barred by limitation by referring to not only to **Bhajan Lal supra**

¹ 1992 Supp. (1) SCC 335

and **Maksud Saiyed v. State of Gujarat², Sunil Bharti Mittal v. Central Bureau of Investigation³, Sham Sunder v. State of Haryana⁴ and Hira Lal Hari Lal Bhawati v. Central Bureau of Investigation⁵.**

Having regard to the above, even so far as the present petition seeking to quash the proceedings by the petitioner/A.10 concerned apart from findings to the above expressions of the complaint is barred by limitation there is no sanction required under Section 197 Cr.P.C. for the very complaint averments show the investigation is in discharge of official duty as police officer the continuation of the investigation of the pending crime partly investigated by the predecessor and successor conducted further investigation filed final report and any press statement covered in the news of the crime is only from the content of the report covered by FIR and panchanama proceedings and nothing beyond much less to attribute beyond the record to make liable.

Having regard to the above and in the result, the continuation of proceedings is nothing but abuse of process and thereby, the Criminal Petition is allowed by quashing the proceedings in CC.No.180 of 2016 against the petitioner/A.10.

Consequently, miscellaneous petitions, if any shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 25.10.2017
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² (2008) 2 SCC 668

³ (2015) 4 SCC 609

⁴ (1989) 4 SCC 630

⁵ (2003) 5 SCC 257