

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 8547 OF 2017

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') to quash the proceedings in C.C.No. 490 of 2017 on the file of the Court of VI Metropolitan Magistrate, Medchal (for short, 'the Court below').

2. Respondent No. 1 filed a private complaint before the Court below against the petitioners for the offence punishable under Sections 499, 500 and 504 read with Section 34 I.P.C. The main allegation made against the petitioners is that they made scandalous and ridiculous allegation against respondent No. 1 that the latter developed unacceptable relationship with a woman who is a member of International Society for Krishna Consciousness (for short, 'ISKCON') which amounts to defamation. After following necessary procedure, the Court took cognizance against the petitioners for the aforesaid offence.

3. The present petition is filed challenging the cognizance taken by the Court below on two grounds, namely; (1) the Court below lacks territorial jurisdiction and (2) no publication of defamatory statement is made by the petitioners and therefore prayed to quash the proceedings. It is the case of respondent No. 1 that the petitioners made a serious allegation against him that he had engaged a mataji (Narayan (Nishant) Prabhu's sister) to massage his feet and such relationship is not accepted by the society and the members of the ISKCON. In the correspondence between the parties, the petitioners themselves admitted that they openly informed the alleged relationship among the other members of the ISKCON. The said act of the petitioners indubitably would amount to publication of defamatory statement and it is a question of fact to be decided

during trial. Hence, the contention that there was no publication of defamatory statement or allegation is without any basis and it is therefore not a ground to quash the proceedings at this stage.

4. The other contention raised by learned counsel for the petitioners is that no incident took place within the jurisdictional limits of Hyderabad. As seen from the correspondence *i.e.* e-mail dated 06-10-2016, the incident took place at two different places, one is at Hyderabad and the other is at Salem, Tamil Nadu State. The incident at Hyderabad is suffice to confer jurisdiction on the Court at Hyderabad and therefore the ground that no cause of action arose within the jurisdiction of the Court below is without any substance. However, it is left open to the petitioners to raise such plea before the Court below and the Court below, after recording evidence if found that no incident took place within its jurisdictional limits, may pass appropriate orders in accordance with law. Hence, it is not a ground to exercise inherent jurisdiction under Section 482 Cr.P.C.

5. The powers of this Court under Section 482 Cr.P.C. are limited and such powers can be exercised only to give effect to the orders passed under the Code or to prevent abuse of process of the Court or to secure ends of justice. Keeping in view the main object of incorporating Section 482 Cr.P.C., the Apex Court in ***State of Haryana Vs. Bhajanlal***¹ laid down seven guidelines which are as follows:

- "(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.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code.

¹ 1992 Supp. (1) SCC 335

- (3) *Where the allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
- (4) *Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code.*
- (5) *Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*
- (6) *Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*
- (7) *Where a criminal proceeding is manifestly attended with mala fide and/or where 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."*

According to guideline Nos. 2 and 3, when the allegation made in the complaint or charge sheet, if taken on its face value, does not constitute an offence punishable under the provisions of penal law, the Court can exercise its inherent jurisdiction to quash the said proceedings. The present facts of the case would not fall on any of the guidelines referred *supra*. Hence, I find no ground to quash the proceedings at this stage. Consequently, the petition is liable to be dismissed.

6. The criminal petition is accordingly dismissed at the stage of admission. Pending miscellaneous petitions, if any, in this criminal petition shall stand dismissed in consequence.

Date: 21-12-2017.
JSK

M.SATYANARAYANA MURTHY, J.