

HON' BLE Dr. JUSTICE B. SIVA SANKARA RAO

Criminal Petition No.8465 of 2010

ORDER :

The petitioner is the A.1 in C.C.No.215 of 2010 on the file of the Judicial Magistrate of First Class-cum-Special Mobile Court, Kurnool, where the learned Magistrate has taken cognizance for the offences punishable u/ sec.467 and 506 IPC which is outcome of the police final report dated 07.03.2009, outcome of Cr.No.63 of 2009 on the report of the 2nd respondent/ defacto-complainant while he was District Tribal Welfare Officer(DWTO).

Heard the learned counsel for the petitioner/ A.1 and also the learned Public Prosecutor representing the 1st respondent-State and perused the grounds urged in the quash petition and the contents of the FIR, chargesheet and part-II CD material.

The contentions urged in the quash petition vis-à-vis oral submissions of the learned counsel for the petitioner-A.1 in nutshell are that he is innocent and is falsely implicated for no offence committed and the proceedings are liable to be quashed, that there are various complaints received from the employees that the 2nd respondent DTWO has been harassing them and in that connection the petitioner in the capacity of President of the Non-Gazetted Officers Association, Kurnool (for short, 'Association') submitted a representation, dt.04.03.2009 to the District Collector and the 2nd respondent came to know of the representation and taking advantage of the suspension of the A.2 there working under him foisted a false case as if the petitioner threatened him about

the suspension of 2nd respondent but the petitioner never approached the 2nd respondent but for made a representation about the grievance of the employees to the District Collector and there is unexplained delay of alleged incident dt.05.03.2009 in reporting to the local police on 07.03.2009 and it is an after-thought and as a counterblast to serve against the complaint given against him to the Collector and therefrom the proceedings are unsustainable.

On perusal of the very report of the defacto-complainant vis-à-vis the statement of him as L.W.1 from the police final report speaks that the defacto-complainant on 04.03.2009 suspended the A.2-T.Mallikarjuna, Junior Assistant and the petitioner being President of the Association, at the instance of said T.Mallikarjuna, giving out life threats to the defacto-complainant saying unless the suspension against A.2 is lifted, the petitioner is going to see his end and they 10 persons came and challenged if he dare enough to come to office and saying so they mentally prevented in discharge his official duties.

The crime registered and the chargesheet filed and the cognizance taken for the offences under Section 447 and 506 IPC. Prima facie there is no offence of Section 447IPC and even from the FIR and the statement of the defacto-complainant so called threat is only by phone call and what he says is from the land phone, the phone call received to his cell phone and when he answered the call, it is the A.1 that was speaking over the phone in

support of the said suspended T.Mallikarjuna to lift the suspension. There is no trespass directly even taken for arguments sake from any implication in the FIR, same is clarified by said statement of L.W.1 of the accused came to the office but the office is a public office, it cannot be considered as trespass. Even taken for arguments sake, from that land phone to the cell phone of the defacto-complainant A.1 talked to him over that phone, that no way constitutes any offence of trespass.

So far as the Criminal intimidation is concerned, what he stated of he received the threats from the land phone from the accused saying if the defacto-complainant is dare enough to come to office there are 10 persons along with him and will see his end and created panic and fear therefrom prevented him from discharge of duties by attending the office. In fact, there is a prima facie case for the offence u/ sec.506IPC therefrom but even the threats are over phone not by face to face as it is intended to create fear the words hurled however there is no other material including collecting call data of the land phone of the office of the petitioner from obtaining monthly phone bill at least from the call data of the defacto-complainant, to show whether the petitioner/ accused made calls to the cell phone of the defacto-complainant which is material here. The alleged occurrence was on 05.03.2009 and there is no explanation for waiting till 07.03.09 in giving the report and in registering crime suffice to say the accused all through faced the ordeal of the said case outcome of

the crime and charge sheet of 2009, there is nothing to continue for the futility as ultimately the case made not succeed from the ipsy and dipsy version that the belated report of the defacto-complainant with no supporting material to sustain and prove the accusation apart from that offence u/ sec.506 is a non-cognizable one even.

In the result, the Criminal Petition is allowed by quashing the proceedings in C.C.No.215 of 2010 on the file of the Judicial Magistrate of First Class-cum-Special Mobile Court, Kurnool against the petitioner. The petitioner is acquitted and his bail bonds shall stand cancelled.

Consequently, pending miscellaneous petitions, if any, shall stand closed.

Date:13.09.2017
vvr

Dr. B.SIVA SANKARA RAO J,

