

THE HON'BLE SRI JUSTICE N.BALAYOGI
CRIMINAL PETITION No. 1780 of 2011

O R D E R :

This Criminal Petition is filed under Section 482 of Cr.P.C., seeking to quash the proceedings in C.C.No.903/2009, on the file of the VIII Metropolitan Magistrate, Cyberabad, Rajendernagar, Ranga Reddy District.

2. The contention of the petitioner is that the 2nd respondent/ *de facto* complainant, by way of the complaint, contended that their agency has erected a few Uni Poles in the property of Sri Mumtaz Ahmed Khan, MLA, which is in the vicinity of Shamshabad Airport. The further contents of the complaint reads to the effect that on 12.06.2009 at about 6.30 P.M. the concern of the *de facto complainant* is said to have received a phone call from their client M/s Noveter Hotels Ltd., RGI Airport, Shamshabad, informing that a Uni Pole, displaying their message, in the property of Sri Mumtaz Ahmed Khan, MLA had collapsed. Thereupon, it is stated that the *de facto complainant/* 2nd respondent and others rushed to the said spot and found that the Uni Pole had collapsed and the nuts and bolts affixed to the foundation, numbering 21 were missing out of the 28 nuts and bolts affixed to install the Uni Pole. Upon inspection of the site by the structural Engineer, it came to light that it is a clear case of sabotage and the same was done with the intention of causing severe loss to the business of *de facto*

complainant/ 2nd respondents, apart from reputation and also to create havoc and panic to the people, traveling to and from RGI Airport.

3. The contention of the petitioner is that in the complaint filed by the *de facto* complainant, there is an allegation of suspecting the petitioner. The cardinal principal of criminal jurisprudence is that suspicion, however strong, cannot take place of proof.

4. The counsel for the petitioner contends that the *de facto complainant* filed a compliant to the Station House Officer, R.G.I., Airport Police Station,, Shamshabad against the petitioner and upon receiving the complaint from the *de facto complainant*, Police registered a case in FIR No. 291/2009 under Section 447, 427 and 506 IPC. The petitioner upon becoming aware of the registration of the aforementioned case, obtained bail from the Court of the Hon'ble VIII Metropolitan Magistrate, Cyberabad, Rajendernagar on 12.08.2009. Subsequent to the registration of Crime No. 291/2009, the *de facto* complainant again given complainant in Crime No. 871/2009 on 17.07.2009. The police filed final report, stating that the *de facto* complainant / 2nd respondent did not come forward and co-operated during the investigation with the investigation officer.

5. The counsel for the petitioner further contended that the 2nd respondent to wreck vengeance against the petitioner for setting up similar business, has been falsely implicating the

petitioner in criminal case. That, there is no iota of evidence against the petitioner for the offence of trespassing or causing damage to property, much less of criminally intimidating the respondent No.2. Therefore, the invoked provisions of Sections 447, 427 and 506 IPC do not, *prima facie*, stand attracted so as to prosecute this petitioner.

6. Though Sri C. Kumar, counsel for the 2nd respondent did not appear and advanced his arguments, per contra, the Public Prosecutor contended that *prima facie*, there is a material against the petitioner to prosecute as alleged in the complaint, documents filed in the Court and also in the charge sheet.

7. Heard counsel for the petitioner and Public Prosecutor for the respondents.

8. Now, the point that arises for determination is :

Whether there is any prima facie material to prosecute the Petitioner/Accused ?

Perusal of the record would goes to show that the case in Crime No.291/2009 was registered, basing on the complaint of the *de facto* complainant dated 13.06.2009. After thorough investigation the charge sheet was filed against the petitioner. The *de facto* complainant / 2nd respondent was examined by the police on 09.08.2009, besides examining Mohd. Abib Ahmed and also brother of the complainant. On 26.06.2009, the Ad-Age Out Door Advertising Pvt. Ltd. gave legal notice to the petitioner, stating that the petitioner worked in the company for a period of 8 years. The Company gave a hand loan for a sum of

Rs.67,250/-, which is equal to consultancy charges for the month of May 2009 vide cheque dated 29.05.2009 of ICICI Bank, Jubilee Hills Branch. The petitioner worked as Consultant till 31.05.2009. In the said notice the 2nd respondent requested the petitioner to repay the loan amount.

9. The petitioner gave reply dated 15.07.2009, stating that the 2nd respondent has come up with a concocted story which on the very face of it smacks of artificiality and is far from truth. Further appraised that the *de facto* complainant / 2nd respondents has been spreading defamatory allegations in the market in order to spoil his name and reputation, resulting in losses in his newly set up business.

10. The Sub Inspector of Police, after thorough investigation in Crime No. 817/2009 on the complainant of 2nd respondent, filed final report, closing the FIR, referring same as "lack of evidence".

11. In the complaint as well as in the charge sheet there is specific allegations that on 13.06.2009, the *de facto* complainant 2nd respondent lodged a complaint that they are operating Outdoor advertising agency under the name of "Ad Age Outdoor Advertising Pvt. Ltd." situated at Plot No. 181/A, MLA Colony, Road No.12, Banjara Hills, Hyderabad. Their agency is in the above business since 25 years. Their agency has erected a few Uni Poles in the property of Sri Mumtaz Ahmed Khan, MLA. While so, in the evening of 12.06.2009 at about 6.30 PM they received a phone call from their client M/s.Novotel Hotels Ltd.,

RGI Airport, Shamshabad that their Uni pole, displaying their message in the above property had collapsed. They immediately rushed to the said spot. To their utter shock they found that the pole had collapsed and nuts from 21 foundation bolts were missing from Uni poles out of total number of 28 bolts/nuts. The Structural Engineer found that it is a clear case of sabotage and the same was done with an intention of causing severe loss to their business and reputation and also to create havoc and panic to the people travelling to and from RGI Airport road.

12. It is pertinent to note that before the actual incident took place, Mr. Urooj Farooky, the petitioner herein, had called their Director Syed Musharaff Mehdi on his Mobile phone bearing No. 9949600007 and threatened him that he would cause major damage to their business and property for which they will repent all their lives and thus he said he would do because he was removed from the job, even though all his dues were settled before he was removed from the job. Earlier to this, one day in the evening hours i.e. first week of June 2009, the said accused Mohd. Urooj Farooky came to their office, while Syed Musharaff Mehdi was discussing with his friend by name Mohd. Habeeb Ahmed, threatened him that he would cause major damage to their business and property as the petitioner was removed from the job. Because of threats made by the petitioner over phone and also with the brother of the complainant, in the complaint the name of the petitioner was mentioned by suspecting that the petitioner might caused the said damage.

13. The statements of witnesses recorded by the police and charge sheet opened on the complaint, *prima facie* made out ingredients for the offence of 447 and 506 IPC.

14. In view of the facts and circumstances discussed above, I am of the considered view that there is a *prima facie* material to prosecute the petitioner.

15. Accordingly the Criminal Petition is dismissed. The Miscellaneous Petitions pending, if any, shall stand closed.

14th March, 2018.

JR

N.BALAYOGI, J



THE HON'BLE SRI JUSTICE N.BALAYOGI



14th March, 2018.

JR