

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.10131 OF 2017

ORDER:

This criminal petition is filed under Section 482 Cr.P.C to quash the proceedings in C.C.No.107 of 2017 on the file of Judicial Magistrate of First Class at Sulthanabad, Karimnagar District for the offences punishable under 420 IPC and Section 9 of Essential Commodities Act.

The brief facts of the case are that on 28.02.2013, the complainant/second respondent who is working as a Deputy Tahsildar, Civil Supplies, Sulthanabad lodged a complaint with the police stating that during the Rabi 2011-12, the Government agencies i.e. IKP/PACSS purchased paddy from the farmers at minimum support price and supplied to rice mills in the district, where the miller has to deliver resultant rice i.e. 68% for boiled rice and 67% for raw rice to the Food Corporation of India. In this process, one M/s Sri Rama Industries had received 20914.40 quintals of paddy under CMR during Rabi 2011-2012 from IKP/PACS group. But, one of the partner of M/s Sri Rama Industries i.e. the petitioner herein has furnished a false statement as if he had received only 15192.00 quintals of paddy from IKP/PACS group during Rabi 2011-2012. Further, the 68% resultant rice on the paddy received by the miller is worked out at 10330.56 quintals towards resultant rice to be supplied to the Food Corporation of India under CMR.

Further, one Kadari Linga Rao, Managing Partner of M/s Sri Rama Industries had furnished the declaration to the District Manager, APSCSC Ltd. Karimnagar, stating that they had received 20914.40 quintals of paddy under CMR during Rabi 2011-12 and quantity of 3693.52 quintals of rice against the total rice was derived under CMR remained undelivered. Therefore, the complainant stated that the petitioner has furnished false information regarding paddy receipts during Rabi 2011-12 i.e. 5722.40 quintals less, thus, the miller has not shown the records for the paddy worth Rs.63,51,864/-. Hence, complaint was lodged against the petitioner. Based on the complaint, the police registered Crime No.54 of 2013 under Section 420 IPC and Section 9 of Essential Commodities Act.

Learned counsel for the petitioner submitted that District Manager, APSCSCL, Karimnagar issued a letter dated 13.03.2013 informing that the firm M/s Sri Rama Industries has no dues regarding CMR deliveries, but the petitioner did not furnish any false information to the department. Therefore, the allegations made in the charge sheet would not *prima facie* attract the offences punishable under Section 420 IPC and Section 9 of Essential Commodities Act.

This Court, undoubtedly is conferred with the inherent power to quash the proceedings, if the allegations made in the charge sheet on its face value would not constitute an offence punishable under any of the provisions of the Indian Penal Code or any provision in penal law.

To exercise power under Section 482 Cr.P.C, this Court has to look into the allegations in the charge sheet and find out whether those allegations made in the charge sheet on its face value would not constitute offences punishable under Section 420 IPC and Section 9 of Essential Commodities Act.

But, as seen from the allegations made in the complaint, the management of M/s Sri Rama Industries has furnished information that it had received 15192.00 quintals of paddy earlier, whereas, in the information furnished to the District Manager, APSCSCL, Karimnagar the management submitted that it had received 20914.40 quintals of paddy i.e. 5722.40 quintals less. Similarly, in the complaint it is stated that the rice delivered was 10508.81 quintals as against 10530.00 quintals of rice i.e. 21.19 quintals in excess. As per the material collected by the Investigating Agency, the petitioner received 15192.00 quintals of paddy from IKP/PACS during 2011-2012 and has to deliver resultant rice i.e. 68% boiled rice and 67% raw rice to the Food Corporation of India. But, the petitioner furnished false information to the District Manager, APSCSCL, Karimnagar *prima facie*, as per the allegations made in the charge sheet.

In **State of Haryana v. Bhajan Lal**¹ this Court considered in detail the scope of Section 482 and the power of the High Court to quash criminal proceedings or FIR. The Apex Court summarized the legal position by laying down the following guidelines to be

¹ 1992 Supp. (1) SCC 335

followed by High Courts in exercise of their inherent powers to quash a criminal complaint:

- (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.
- (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.

In **R.P. Kapur v. State of Punjab**², the Apex Court held as follows:

- (i) Where institution/continuance of criminal proceedings against an accused may amount to the abuse of the process of the court or that the quashing of the impugned proceedings would secure the ends of justice;
- (ii) where it manifestly appears that there is a legal bar against the institution or continuance of the said proceeding, e.g. want of sanction;
- (iii) where the allegations in the First Information Report or the complaint taken at their face value and accepted in their entirety, do not constitute the offence alleged; and (iv) where the allegations constitute an offence alleged but there is either no legal evidence adduced or evidence adduced clearly or manifestly fails to prove the charge.

In view of the guidelines laid down by the Apex Court in the judgments referred supra, if the facts on its face value are taken into consideration, it constitutes an offence, *prima facie* if proved. The Court cannot interfere, **except** when the Court comes to a conclusion that it is an out come of abuse of process of law.

When the allegations made in the charge sheet disclosed commission of an offence punishable under the provisions of the Indian Penal Code, this Court cannot exercise its inherent power to quash the proceedings. Therefore, by applying the guidelines laid down by the Apex Courts in the judgments referred supra, this criminal petition is dismissed.

² AIR 1960 SC 866

In the result, the criminal petition is dismissed.

Consequently, miscellaneous applications pending if any, shall also stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:02.11.2017

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