

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 11438 OF 2017

ORDER:

This petition under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') is filed to quash the proceedings in crime No. 207 of 2017 of Eluru III Town Police Station, West Godavari District, registered for the offence punishable under Sections 176, 177, 406, 409, 420, 468, 471 read with Section 34 of the Indian Penal Code.

2. The allegations made against the petitioner are that she sanctioned increments to respondent No. 2 *vide* proceedings R.C.No. 821/93/SW-1 dated 09-12-2005 though the former is not eligible for such sanction to the latter and thereby caused loss to the State exchequer; that after conducting necessary inquiry, a report was submitted by the inquiry officer and that based on the same, a report was lodged with the police against the petitioner and others.

3. The main contention of the petitioner is that no specific allegation is made against her in the entire report and that in the absence of any specific allegation, the investigating agency cannot proceed against this petitioner to investigate into the crime. It is also contended that the petitioner was not competent to sanction increments and would draw the attention of this Court to the office order dated 30-01-2008, whereby the duties of the petitioner were specified. Taking advantage of the specific duties entrusted to the petitioner, learned counsel contended that she is unconcerned with the sanction of increments to any employee in the department and that a false case is registered against her.

4. As seen from the material on record, the District Collector – cum – Chairman, District Scheduled Castes Service Cooperative Society Limited, Eluru,

West Godavari District, held an inquiry and on receipt of inquiry report, it is found that the petitioner along with others committed such an irregularity and the specific allegation made against this petitioner is that she sanctioned increments and thereby caused financial loss to the tune of Rs.79,36,908/-. The investigation in this case is not yet commenced and therefore at this stage, it is difficult for this Court to quash the proceedings on the ground that the name of the petitioner was not mentioned in the F.I.R. The power under Section 482 Cr.P.C. shall be exercised only in extraordinary circumstances and in rarest of rare cases and such power should not be exercised to stifle legitimate prosecution. The High Court, being the highest Court of a State, should normally refrain from giving a *prima facie* decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. At the stage of considering the application under Section 482 Cr.P.C., the power of this Court is limited to verify the allegations made in the complaint but cannot appreciate. Merely because the petitioner's name is not found in the report lodged with the police, it is not a ground to quash the proceedings since F.I.R. is only an intimation to the police concerned about commission of a cognizable offence to set the criminal law into motion and it need not contain minute details. Therefore, on the ground that the name of the petitioner was not mentioned in F.I.R., the proceedings in crime No. 207 of 2017 cannot be quashed. When the investigation is not yet commenced and the facts are incomplete, this Court cannot exercise inherent jurisdiction under Section 482 Cr.P.C. in view of the law declared by the Apex Court in ***State of Orissa Vs.***

Saroj Kumar Sahoo¹ and ***Kurukshetra University Vs. State of Haryana***². In the present case, the investigation is not yet commenced. By applying the principle laid down in the above judgment, I find no ground to quash the proceedings at this stage. Consequently, the petition is liable to be dismissed.

5. The criminal petition is accordingly dismissed. Pending miscellaneous petitions, if any, shall stand dismissed in consequence.

Date: 22-11-2017.

JSK

M.SATYANARAYANA MURTHY, J.



¹ (2005) 13 SCC 540

² AIR 1977 SC 2229