

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.11218 OF 2017

ORDER:

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure (Cr.P.C.) to quash the proceedings in Crime No.386 of 2017 of Rly-Kodur P.S., Kadapa District, registered for the offences punishable under Sections 341, 307, 324, 354 read with Section 34 of the Indian Penal Code (IPC) and Section 3(i)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act ("the Act" for brevity), crime was registered based on the complaint lodged by the *de facto* complainant by name Gundala Narayanamma, the second respondent herein.

The main ground raised before this Court is that the allegations in the complaint would not constitute an offence punishable under the provisions of the Act and even complaint does not disclose commission of offences punishable under Section 307 IPC and other penal provisions.

It is the case of the second respondent that on 03.10.2017, she went to the fair price shop at Bojjavaripalli Village. At about 6 pm, when the second respondent was proceeding near water tank in Bojjavaripalli Village, both the petitioners came there in a car, got down from the car, obstructed the *de facto* complainant and abused her in filthy language and thrown her down by kicking with leg. In the meanwhile, the first petitioner on instigation of the second petitioner hit her on her right leg with iron rod with an intention to kill her. Both the petitioners abused her in filthy language and caused injuries on her body. Therefore, the

allegations made in the FIR, if taken on their face value, would constitute offences punishable under Section 307 IPC and provisions of the Act. However, the investigation is not yet commenced and at this stage, when the investigation is at foetus stage, this Court cannot quash the proceedings when the material is not complete and hazy.

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 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

¹ 1992 Supp. (1) SCC 335

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 view of the Apex Court judgment cited supra, this Court cannot exercise inherent jurisdiction under Section 482 Cr.P.C. and quash the proceedings as the allegations in the complaint disclosed commission of offence, *prima facie*. Admittedly, investigation is not yet commenced and in such case, this Court cannot exercise jurisdiction under Section 482 Cr.P.C. to quash the proceedings. In **State of Orissa v. Saroj Kumar Sahoo**², it is held that the inherent powers under Section 482 Cr.P.C. should not be exercised by the High Court to stifle a legitimate prosecution. The High Court, being the highest Court of 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. The same principle was laid down in **Kurukshetra University v. State of Haryana**³.

² (2005)13 SCC 540 : 2006(2) ALT (CrI.) 16

³ (1977)4 SCC 451 : AIR 1977 SC 2229

In view of the law laid down by three judgments referred to supra, I find no ground to exercise inherent jurisdiction under Section 482 Cr.P.C. at this stage and the Criminal Petition is liable to be dismissed.

In the result, the Criminal Petition is dismissed.
Miscellaneous petitions, if any, pending shall stand dismissed.

(M.SATYANARAYANA MURTHY, J)

21st November 2017
RRB

