

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.10954 OF 2017

ORDER:

This criminal petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in C.C.No.675 of 2017 on the file of II A.J.C.J. – cum – XIX Metropolitan Magistrate, Kukatpally, Miyapur, Hyderabad, registered for the offence punishable under Sections 497 and 506 of Indian Penal Code (for short "I.P.C.").

The respondent No.2 lodged a report with the police and the same was registered as a case in Crime No.257 of 2017 for the offence punishable under Sections 497 and 506 of I.P.C. making serious allegations against the petitioner that he developed illicit contact with his wife and narrated the circumstances as to how the petitioner developed illicit contact and chatting with the wife of the defacto complainant. On the strength of the same, police took up investigation and completed the same within a short time, filed charge sheet against the petitioner. During investigation, investigating agency examined four (4) witnesses, recorded their statements under Section 161 of Cr.P.C.

The petitioner contended that the allegations made in the charge sheet would not constitute any offence either under Section 497 or 506 of I.P.C.

Certain material was produced before this Court along with the petition i.e. chatting printouts. Based on such printouts, learned counsel for the petitioner contended that the messages in the printouts would not disclose anything about illicit intimacy

between the petitioner and the wife of the defacto complainant. The chatting printouts, may, at best show the conversation between the parties, it would never disclose illicit contact between the petitioner and the wife of the defacto complainant.

To exercise the power under Section 482 of Cr.P.C. and quash the proceedings in the present calendar case, the Court is required to verify the allegations made in the complaint and the material, if any, produced along with charge sheet under Section 173 of Cr.P.C., but conveniently the petitioner did not produce before this Court any statements of witnesses recorded by the police except producing the F.I.R. copy, registered correspondence between the defacto complainant and his wife and the copy of P.L.C.No.92 of 2017 filed by the wife of the complainant before the Secretary, Legal Service Authority, Ranga Reddy District at L.B.Nagar, counter filed D.V.C.No.46 of 2017, but those documents cannot be gone into at this stage and at best this Court is required to verify the material produced along with the charge sheet, obviously for different reasons those documents are not filed before this Court. Hence, the extraneous material conveniently produced before the Court, without placing relevant documents filed along with charge sheet, the proceedings cannot be quashed.

The allegations made in the charge sheet would constitute offence punishable under Sections 497 and 506 of I.P.C. *prima facie*.

The jurisdiction of this Court under Section 482 of Cr.P.C. is limited, this Court can exercise such power only to give effect to any order passed under the Code or to prevent abuse of process of Court or to meet the ends of justice.

In “**R.P. Kapur v. State of Punjab**¹”, the Apex Court laid down the following principles:

- (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.

Later, in “**State of Haryana v. Bhajan Lal**²” the Apex Court considered in detail the powers of High Court under 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.

¹ AIR 1960 SC 866

² 1992 Supp (1) SCC 335

(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.

According to guideline Nos.3, 4, 5 and 7 formulated in **“State of Haryana v. Bhajan Lal”** (referred above), if the allegations made in the charge sheet or F.I.R., taken on their face value, would not constitute any offence or absurd or if the charge sheet is filed to wreck vengeance on the accused abusing process of the Court, the Court may exercise the inherent jurisdiction under Section 482 of Cr.P.C.

In the absence of statements recorded by the police and material produced before the Court by the investigating agency along with charge sheet, based on the allegations made in the petition this Court cannot come to the conclusion that the charge sheet was filed for any other reason or at least to make a ground for divorce as contended by the learned counsel for the petitioner. Therefore, I find no ground to quash the proceedings in C.C.No.675 of 2017 on the file of II A.J.C.J. – cum – XIX Metropolitan Magistrate, Kukatpally, Miyapur, Hyderabad at this stage. Consequently, the petition is liable to be dismissed.

In the result, the criminal petition is dismissed. No costs.

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

JUSTICE M. SATYANARAYANA MURTHY

17.11.2017
Ksp

