

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.10270 OF 2017

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (Cr.P.C.) to quash the proceedings in Crime No.82 of 2017 of Deverkadra P.S., Mahaboobnagar District, for the offence punishable under Section 307 read with Section 34 of the Indian Penal Code (IPC), registered on the basis of the report lodged by Sri K.Srikanth Yadav, S/o.K.Yerranna.

The main grounds urged in this petition are that (a) the petitioner-accused No.1 was implicated falsely due to political grudge because of his development; (b) the *de facto* complainant does not disclose the details as to who drove the vehicle and who uttered the words; (c) at best the allegations would attract an offence punishable under Section 326 or 337 or 338 IPC but not 307 IPC; and (d) that if the case is tried by Magistrate, he will have a chance of appeal before the District Court in the event of conviction but on account of trial by the Sessions Judge, he is going to lose the chance of appeal before the Sessions Court and therefore, requested this Court to quash the proceedings in Crime No.82 of 2017 of Deverkadra P.S., Mahaboobnagar District.

During hearing, counsel for the petitioner drawn the attention of this Court to the report lodged by the *de facto*

complainant and on the strength of the allegations, he contended that in the absence of any details, the police cannot be permitted to investigate into the crime and none of the allegations would attract the offence punishable under Section 307 IPC before reiterating the other grounds referred supra.

Learned Public Prosecutor for the State of Telangana contended that to constitute an offence causing an injury with intention to kill is sufficient and second paragraph of the report discloses that the persons in the jeep chased the *de facto* complainant with an intention to kill him while he was riding the motor cycle and therefore, this allegation is sufficient to attract an offence punishable under Section 307 IPC and prays to dismiss the petition.

In view of the grounds urged before this Court by Sri Vamseedhar Reddy, learned counsel appearing on behalf of Sri P.S.P.Suresh Kumar, learned counsel for the petitioner, it is necessary to extract the relevant allegations made in the report and the scanned copy of the same is as follows:

శ్రీమత సోపనయ్యై సత్య ద్విపక్షర ద్వి పాత్ర
చే వరకర్త నారి

అయ్య:-

నేను అనగా కెంగూరి శృకాంత యాదవ్
సం. కెంగూరి విరన్న, పయస్సు 47 సం.ల కులం కురవ వున్న
వ్యాపారు, నివాసం నానాగు.

తమరితో మనవి చేయక మేమనగా
నేను తేది 31-08-2017 గురువారము ఉ. 11.00 గం.ల సమయం
ఇంటి నుండి బయలుదేరి నాయుడు బుద్ధేట్ల వాహనము TS06
EN 2888 పై దేవరబల్లెకు వెళ్లి నా స్వంత పనులు చూసు
కొని తిరిగి నిన్న రాత్రి అందానా రాత్రి 9.00 గం.లకు నా
బుద్ధేట్ల పై నా ప్రాముఖ్యము తిరిగి వెళ్ళు చుండగా
బస్టాపుగం నేను దగ్గర ఒక మహిళా జీపు తిరిగి యుండు
నేను తిరిగి చూసి నాయుడు బుద్ధేట్లకు వెళ్ళు తీసుకుని
పోవు చుండగా దాదాపు 1/2 కి. మీ. పోయిన తరువాత నా
వెనుక నుండి ఒక జీపు అతివేగమున వస్తుండగా నేను
వెనకకి మళ్ళి చూడగా దాని డ్రైవర్ నాపైకి తగురుతున్న
తీరున ఉంటే యింకే దాని డ్రైవర్ క్రింద నాపైకి తగురుతున్న
నా బుద్ధేట్ ను గుద్దినాడు నేను వెనకి ప్రక్క చేతుల్ పడి
పోయినాను. ఆ తరువాత ఆ జీపులో వున్న వాళ్ళు ఎక్సిలేటర్
రెస్ట్ చేస్తూ ఆ వెలుతురులో జీపులో నుండి కంక ప్రశాంత.
రెడ్డి వాడు. కంక సూర్యప్రతాప రెడ్డి, కంక రవికాంత రెడ్డి వాళ్ళ
సూర్య ప్రశాంత రెడ్డి, పుట్ట చంద్రమౌళి సం. P. బాలయ్య ఇం.
బలమపల్లి, మరిమొ ఇంకా కంక మంది నా కైపు చూస్తూ
లొలు ఇంకాను - చచ్చి వాళ్ళ పేర విరగడ అయ్యింది అని తిరుగు
జీపులో అంతా వెళ్ళి పోయినారు. అప్పుడు సమయం రాత్రి
9 గం.ల 15 నిమిషాల తాళుతున్నాను. వాండు పోయిన పదమూడవ
నేను తేలి - చూచుకొనిగా సాంకేతిక చేతి, కుడి చేతి,
కుడి కన్ను క్రింద మరియూ తల పై భాగము (P.T.O)

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Received on: 01/07/2017

at 0100 hours

He per the Court's of the above
Committee 1518, it is right to care
to 82/2014 U/s 307 of the
1947 Act up to the 81st year
1947-48-2012

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The allegations made in the report lodged with the police by the *de facto* complainant clearly discloses that the petitioner along with others by name Konda Prashanth Reddy, Konda Ravi Kanth Reddy and Putta Chandramouli and others chased the bullet motor cycle of the *de facto* complainant while he was proceeding in a specific direction and hit the motor cycle from the rear side, with an intention to kill him and when he fell down, all the persons raised accelerator and while looking at the petitioner abused him in filthy language as extracted above. The other allegations in the second page of the complaint in vernacular would disclose that the petitioner and others chased the *de facto* complainant while he was riding bullet motor cycle on road side with an intention to kill him. Therefore, these allegations are sufficient to constitute an offence.

The contention of the petitioner is that he was falsely implicated due to different reasons and such question cannot be decided while deciding an application filed under Section 482 Cr.P.C. The other contention raised before this Court is that the report lodged with the police is silent regarding the details as to who drove the vehicle as referred to supra. More over, the report is silent as to name of the driver of the jeep and who uttered the words referred to supra but that by itself is not a ground to quash the proceedings exercising inherent power under Section 482 Cr.P.C. for the reason that the FIR is an information to the police about commission of cognizable offence and it is useful for the

limited purpose under Section 152 of the Evidence Act but not a substantive piece of evidence. It is also settled law that FIR need not contain minute details. Therefore, the Court cannot quash the proceedings when details are lacking at the foetus stage of investigation.

The other contention raised by the counsel for the petitioner is that at best the allegations would attract an offence punishable under Section 326 or 337 or 338 IPC and if the charge sheet is filed before the Magistrate having jurisdiction, he will have an opportunity of filing an appeal before the Sessions Court and if it is tried and decided by an Assistant Sessions Judge, he will lose a chance of appeal before the District Court.

Undoubtedly, the offence punishable under Section 307 IPC is triable by the Assistant Sessions Judge. If, for any reason, the Assistant Sessions Judge found the petitioner guilty of an offence under Section 326 or 337 or 338 IPC, the Assistant Sessions Judge may impose punishment and against such judgment an appeal lies to the District Judge. Therefore, losing the chance of appeal before the Sessions Court is not a ground to quash the proceedings.

In view of my foregoing discussion, none of the grounds raised before this Court are sufficient to exercise inherent jurisdiction under Section 482 Cr.P.C. at this stage that too

investigation in this case is not yet commenced and in such case, this Court cannot decide the provision under which the offence falls. In **Ghanshyam Sharma v. Surendra Kumar Sharma**¹, the Apex Court held that the High Court cannot decide the provision under which the offence falls; it may be under the provisions cited in the impugned charge sheet or under the provision High Court felt was attracted, but it is for the trial Court to decide that on the evidence produced before it.

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.

¹ (2014)13 SCC 401

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

³ (1977)4 SCC 451 : AIR 1977 SC 2229

In view of the law declared by the Apex Court in the judgments stated supra, I find no grounds to quash the proceedings at this foetus stage of investigation.

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

(M.SATYANARAYANA MURTHY, J)

7th November 2017
RRB

