

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CrI.P.No.1207 of 2018

ORDER

This petition under Section 482 of Cr.P.C., is filed to quash the proceedings in C.C.No.1465 of 2017 pending on the file of Judicial First Class Magistrate, Madhira, registered for the offences punishable under Sections 294(b), 324 read with Section 34 IPC, against the petitioners/A1 and A2.

2. The second respondent herein lodged a report with the police alleging that the petitioners caused injuries on his body with hands and sticks. The police registered the case as Cr.No.224 of 2017 for the aforesaid offences and issued FIR. After issuance of FIR, the Sub-Inspector of police Wyra, took up investigation, examined seven witnesses, recorded their statements under Section 161 of Cr.P.C., referred the injured to Community Health Centre, Madhira and obtained a certificate from Dr.E. Ravi Kishore. On the basis of evidence collected during investigation, the Investigating Officer concluded that the petitioners have committed the offences punishable under Sections 294(b), 324 read with Section 34 IPC and filed charge sheet before the Magistrate and the case is registered as C.C.No.1465 of 2017.

3. The present petition is filed on the ground that the allegations made in the charge sheet do not constitute the offences alleged even if the allegations are accepted on the face value, as the case is

foisted falsely on account of political rivalry by the persons who are enimical to the petitioners. It is alleged that the first petitioner/A1 is a Teacher and working elsewhere and has nothing to do with the incident and that the second respondent received injuries during night time in a drunken condition and falsely implicated the petitioners under misconception as they are not visiting his barber shop on account of his improper behaviour and also he was not invited to any functions in the family of the petitioners requiring a Barber. It is also contended that causing injuries on the body with hands and legs would not fall within Section 324 of IPC and prayed to quash the proceedings against them.

4. During hearing, learned counsel for petitioners Sri Raja Reddy Koneti, would draw the attention of this Court to the allegations made in the charge sheet, so also the statement of L.W.1-de-facto complainant recorded under Section 161 of Cr.P.C., during investigation and the medical certificate issued by L.W.8 certifying that the second respondent received only simple injuries in the incident. He contended that the incident even if accepted, that would not fall within Section 324 IPC and on this ground alone, the proceedings against the petitioners for the offence punishable under Section 324 IPC are liable to be quashed.

5. The Public Prosecutor for the State of Telangana opposed the petition on the ground that the allegations even if accepted on its face value would constitute the offences punishable under sections

294(b) and 324 IPC and that this Court cannot record a finding whether those allegations may not constitute the offence punishable under Section 324 IPC or not, at this stage while exercising power under Section 482 Cr.P.C.,

6. Considering the rival contentions and after perusing the material on record, the sole point that arises for consideration is: ***‘whether the allegations made in the charge sheet would constitute the offences punishable under Sections 294(b), 324 read with Section 34 IPC’.***

7. **Point**

As seen from the charge sheet, on 14.09.2017, at about 8.00 PM., while the second respondent was returning to his house, on the way, he had a talk to Kudumula Papi Reddy, who is the maternal aunt's son of A1 and when he reached place in front of the house of Seelam Satyanarayana Reddy, A1 abused him in filthy language by saying that why he was talking to their relatives and beat him with hands and sticks, in the meantime, A2- Kudumula Papi Reddy, s/o. Narasimha Reddy, also came there and abused him in filthy language and both of them made him to fell down on the ground, beat him with hands on his face and body, due to which, he sustained bleeding injuries to his left jaw, neck, hip and lower lip and thus, the petitioners are allegedly committed the aforesaid offences. The statements recorded by the police during investigation under Section 161 Cr.P.C., totally supported the allegations made in the

charge sheet. However, while deciding the application under Section 482 Cr.P.C., this Court is not required to go into the details minutely and record its findings and cannot appreciate the evidence in view of the law declared in **Mrs. Dhanalakshmi v. R. Prasanna Kumar and others**¹, wherein the Apex Court dealt with the scope of Section 482 of Cr.P.C and it reads as under:

“Section 482 of the Code of Criminal Procedure empowers the High Court to exercise its inherent powers to prevent abuse of the process of Court. In proceedings instituted on complaint exercise of the inherent power to quash the proceedings is called for only in cases where the complaint does not disclose any offence or is frivolous, vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance is taken by the Magistrate it is open to the High Court to quash the same in exercise of the inherent powers under Section 482. It is not, however, necessary that there should be a meticulous analysis of the case, before the trial to find out whether the case would end in conviction or not. The complaint has to be read as a whole. If it appears on a consideration of the allegations, in the light of the statement on oath of the complainant that ingredients of the offence/offences are disclosed, and there is no material to show that the complaint is mala fide, frivolous or vexatious. in that event there would be no justification for interference by the High Court.

In another judgment in “**Umesh Kumar v. State of Andhra Pradesh**”² the Apex Court is of the view that at the stage of exercising power under Section 482 of Cr.P.C. the High Court could examine the charge sheet, case diary and other material in the charge sheet which by no means can be termed as substantive evidence. However, in exercise of power under Section 482 of Cr.P.C., it is not permissible for the High Court to appreciate the evidence as it can only evaluate material documents on record to the extent of its prima facie satisfaction about the existence of sufficient ground for proceedings against the accused and the Court

¹ AIR 1990 SC 494

² (2013) 10 SCC 591

cannot look into materials, the acceptability of which is essentially a matter for trial. Any document filed along with the petition labelled as evidence without being tested and proved, cannot be examined. Law does not prohibit entertaining the petition Under Section 482 Code of Criminal Procedure for quashing the charge sheet even before the charges are framed or before the application of discharge is filed or even during its pendency of such application before the court concerned. The High Court cannot reject the application merely on the ground that the accused can argue legal and factual issues at the time of the framing of the charge. However, the inherent power of the Court should not be exercised to stifle the legitimate prosecution but can be exercised to save the accused to undergo the agony of a criminal trial.

8. In view of the law declared by the Apex Court in the aforesaid judgments, while deciding the application under Section 482 of Cr.P.C., this Court cannot express its opinion whether the allegation would attract a particular offence or not. No doubt, the allegations on its face value do not attract the offence punishable under Section 324 IPC, but it would attract the offence punishable under Section 323 IPC if the injuries are simple in nature and if the injuries are grievous in nature, it would attract the offence under Section 325 IPC. But, expressing opinion of this Court is only for limited purpose for deciding the present petition, not otherwise. When the allegations made in the complaint attracting an offence punishable under any penal provision, this Court cannot exercise its power and quash the

proceedings. Therefore, on this ground, the proceedings against the petitioners cannot be quashed.

9. The other offence allegedly committed by the petitioners is punishable under Section 294(b) IPC. Section 294 IPC prescribes punishment for obscene acts and songs. Whoever, to the annoyance of others (a) does any obscene act in any public place, or (b) sings recites or utters any obscene songs, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

10. Here in this case, except the alleged abuses by the petitioners while causing injuries allegedly against the de-facto complainant, no such obscene words are uttered or obscene songs were recited in public place. Therefore, the allegations made in the charge sheet do not constitute the offence punishable under Section 294(b) IPC. Consequently, the proceedings against the petitioners for the offence punishable under Section 294 (b) IPC alone are quashed while permitting the trial Court to decide whether the allegations in the charge sheet would constitute the offence under Section 323 or 324 or 325 IPC and decide the same in accordance with law.

11. In the result, the Criminal Petition is allowed in part, quashing the proceedings against the petitioners for the offence under Section 294(b) IPC while directing the trial Court to dispose of C.C.No.1465

of 2017 on the file of Judicial First Class Magistrate, Madhira, in accordance with law. Miscellaneous petitions, if any, pending in this petition shall stand closed.

M. SATYANARAYANA MURTHY, J

28th June, 2018

sj

