

HON'BLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE No.199 OF 2017

ORDER:

Heard the learned counsel for the petitioner as well as the counsel for respondent No.2.

2. The present Criminal Revision Case is filed questioning the orders passed in C.F.R.No.3625 of 2016 dated 24.11.2016 on the file of the Court of Additional Junior Civil Judge, Mangalagiri, returning the complaint to file along with sanction proceedings.

3. The facts in brief are that the petitioner filed a private complaint under Section 200 Cr.P.C against the respondents 1 to 3 herein for the offence under Sections 120-B, 420, 359 to 363 and 385 IPC on the file of the Court of Additional Junior Civil Judge at Mangalagiri.

4. The case of the petitioner is that he is working as Headmaster in Zilla Parishad High School, Tadepalli, Guntur district. Respondent No.2 was doing liquor and real estate business and he misused his pan card several times and in that connection he received the notices from the Income Tax department. When the petitioner approached respondent No.2, he assured that he will not use the pan card number again but contrary to the same, he used his pan card several times.

Therefore, the petitioner filed a complaint before Pattabhipuram P.S. and Income Tax department, but it was of no use. He even sent a complaint to the CVC, CBI and RBI to take action against respondent No.2. On the other hand, respondent No.2 influenced the Police to register a case in Cr.No.59 of 2016 against the complainant and tried to arrest him. In that context, the petitioner approached this Court and filed CrI.M.P.No.12693 of 2016. In the said Criminal Petition, on 7.9.2016, this Court directed the Police to complete the investigation without arresting the petitioner and to file a final report. On 28.9.2016, respondent No.1 who is the Sub-Inspector of Police, Pedanandipadu, came to the office of the petitioner at about 2.15 p.m. accompanied by five or six persons. They used filthy language against the petitioner and tried to arrest him. When a copy of the order of this Hon'ble Court was produced, respondent No.1 torn the same and used filthy language and tried to physically handle the petitioner and he has taken away the mobile and a sum of Rs.10,000/- from the pocket of the petitioner. Respondent No.1 even tried to kidnap the petitioner since he could not yield to the demand of respondent No.1 for giving bribe for not arresting him. The persons who accompanied respondent No.1 in civil dress beat the petitioner and dragged him upto Innova car bearing No.AP

03 BD 0115 and at that time, his colleagues surrounded respondents 1 to 3 and respondent No.1 did not listen to anyone. Therefore, he filed a private complaint vide C.F.R.No.3625 of 2016. The Court below recorded the sworn statements of the petitioner and two other witnesses and after hearing the contentions of the learned counsel for the petitioner, on 24.11.2016 returned the complaint to the petitioner to file along with sanction. In the said orders, it is stated that the arrival of respondent No.1 at the office of the petitioner is within the performance of duty as a Public Servant in relation to Cr.No.59 of 2016 and therefore, sanction under Section 197 Cr.P.C. is mandatory. The other aspects of infringement of the rights of the petitioner have to be looked into only after obtaining sanction against respondent No.1. Aggrieved by the same, the present Criminal Revision Case is filed.

5. Learned counsel for the petitioner contended that he is working as a Head Master in Zilla Parishad High School, Tadepalli, Guntur district. Respondent No.2 who was doing liquor and real estate business used his pan card several times. In spite of giving complaints to the Police and the Income Tax department, no useful purpose was served. In fact, he lodged a complaint with CVC, CBI and RBI against respondent No.2

However, respondent No.2 influenced the Police and registered Cr.No.59 of 2016 against the petitioner. In that connection, the petitioner approached this Court and obtained orders for completion of investigation without his arrest. In that connection, respondent No.1, on 28.9.2016, went to the office of the petitioner at 2.15 p.m. where he manhandled the petitioner and tried to kidnap him by abusing him in filthy language. He contended that the said activity of respondent No.1 will not come within the ambit of discharging of his official duty.

6. Learned counsel for the petitioner further submitted that there is no necessity to get sanction under Section 197 Cr.P.C. from the State Government to take cognizance against respondent No.1 and the acts done by respondent No.1 are not assigned by the Government to him as a Police Officer.

7. Per contra, learned counsel for respondent No.2 and the learned Public Prosecutor appearing for respondent No.4 State supported the impugned orders.

8. Having heard both the counsel and from the perusal of the material on record, it is evident that on 28.9.2016, respondent No.1 being the Sub-Inspector of Police, Pedanandipadu, went to the place where the petitioner was working and enquired the particulars regarding Cr.No.59 of

2016. The Court below observed from the record that all the witnesses categorically deposed about the arrival of respondent No.1 in the office of the petitioner. Further, even from the orders passed by this Court in CrI.M.P.No.12693 of 2016, it is seen that the Police was directed to complete the investigation into the crime without arresting the petitioner and file a final report. In compliance with the orders of this Court and since Cr.No.59 of 2016 was pending consideration, respondent No.1 went to the petitioner for the purpose of investigation. The said fact of respondent No.1 going to the office of the petitioner, on the face of the record, appears as within his official capacity and within the discharge of the duties as a public servant in relation to Cr.No.59 of 2016. In these circumstances, when the acts of omissions and commissions on the part of any public servant come within the ambit of his discharge of his official duty, sanction under Section 197 of Cr.P.C. is mandatory.

9. Therefore, this Court does not find any merit in the Criminal Revision Case. Accordingly, Criminal Revision Case is dismissed.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHAVA RAO, J

Date: 12.7.2018.
KPM