

THE HONOURABLE SRI JUSTICE N. BALAYOGI

CRIMINAL PETITION No.8628 of 2011

ORDER:

This Criminal Petition is filed by petitioner under section 482 of Cr.P.C, seeking to quash the proceedings in C.C.No.277 of 2011 on the file of the Special Judicial Magistrate of First Class for Excise, Guntur.

2. The contention of the petitioner is that, petitioner never published any defamatory statements against the complainant. Petitioner is the Treasurer of NRI Academy of Sciences, NRI Medical College. As a Treasurer, it is his responsibility to communicate to other members of the academy about the information in the Organization. There is enough proof to back up the statements with regard to financial matters. It is not a publication at all. Therefore, there is nothing defamatory about the accusations made in E-mails. The alleged imputations are true and made in good faith to the other members of the academy.

3. Per contra, the Counsel for respondent No.1 / complainant and the learned Public Prosecutor contended that there is a prima facie material showing that the petitioner to the dismay and aghast of complainant/respondent No.1 was sending defamatory remarks by way of E-Mails and made verbal remarks in meetings to one and all with false and baseless remarks. There is specific allegation alleging that the respondent No.1

collected Rs.60,00,000/- of fee from two students without authorization and not coming to academy and further stated that the Accounts Manager informed the complainant that money was collected and used by respondent No.1/complainant and the said money was for respondent No.1. Accounts Department was asked to collect the said amount from respondent No.1. It is further published that Dr. Raju garu, complainant and Dr. Appa Rao lend money to respondent No.1 and not to Tadepalli land. Further, it was told that 1 crore was handed over to a person sent by respondent No.1-NRIAS cashier, not to Dr. Raju garu. Since there is prima facie material, the petitioner can be prosecuted.

4. Now, the point that arises for determination is:

“Whether there is any prima facie material against the petitioner to prosecute?”

5. In fact, the complainant served as Minister in the Government of Andhra Pradesh. Whereas, petitioner is a Treasurer, NRI Academy of Sciences, who is running medical college in Mangalagiri. The specific imputation is that the petitioner used to publish defamatory remarks always by way of E-Mails and made verbal remarks in the meetings to one and all with baseless remarks. One of such E-Mail is sent by petitioner dated:19-11-2010 wherein it was specifically alleged by petitioner that, some events happened over the last few months which have been very troubling. When asked about those events, nothing was done to correct. It has become more

an autocratic operation. As a Treasurer, he was asked about details of admissions. Then, the Secretary replied that he has to get it from the President. He do not know why Treasurer should be kept in dark about the finances. Further, respondent No.1/complainant is a well wisher of NRIAS and partner with Dr. Appa Rao in other educational institutions, collected Rs.60 lakhs of fee from two students without authorization. That this money did not come into academy account. Petitioner noticed the same in one of the accounts report. When he questioned the accounts manager, he replied that the money was collected and used by respondent No.1. The President and Secretary told the petitioner / accused that they will enter the same in NRIAS books as a loan to Tadepalli land. Further, one Dr. Narsa Raju, took personal short term loan of Rs.1 crore for two weeks, but he did not repay. Later, he came to know that money was for respondent No.1. Still they have collected Rs.50 lakhs plus interest.

Again on 18-11-2010, the petitioner published another item in the general body meeting, wherein it was alleged that, the sale was done by frustrated and exhausted members who felt that there is no future for them in the institution if the things don't change. Further, published in the general body meeting that Dr. Narsa Raju instead of acting as Secretary of NRI academy performed like a Secretary of Dr. Appa Rao garu. Another E.Mail sent by petitioner on 16.11.2010. Similarly, on 04-12-2010, petitioner sent another E.Mail wherein he published that the attachment contain two E.Mails, one from admission

clerk, and the other from Dr. Mukkamala. On February 23, 2010, the admission clerk called the grand parent of Yerneni Ashrita for payout of Rs.20 lakhs, the balance due. He was told that money was already delivered to Dr. Mukkamala through respondent No.1 and the same was acknowledged by Dr. Mukkamala. That money never came to NRI. On 31.3.2010, accounts department asked the Secretary about the said money and another 40 lakhs that was also collected by respondent No.1. The Secretary told that the money was used for Tadepalli land and signed the voucher for that. The money never came to NRIAS, just entered into NRI accounts. There was no communication about this prior to March, 31st 2010, even though both the President and Secretary are aware of the same.

6. Similarly, there are so many E.Mails sent by the petitioner. One of such is that on contact, grand-father of Chukkapalli Suresh informed that Rs.20 lakhs was paid through respondent No.1.

7. The learned Counsel for the petitioner placed reliance in the case of JAWAHARLAL DARDA AND OTHERS, Appellants Vs. MANOHARRAO GANPATRAO KAPSIKAR AND ANOTHER, Respondents in AIR 1998 SUPREME COURT 2117, where the Apex Court held that as under:

“What the accused had published in its newspaper was an accurate and true report of the proceedings of the Assembly. Involvement of the respondent was disclosed by the preliminary enquiry made by the Government. If the accused bona fide believing the version of the Minister to be true published the report in good faith it cannot be said that they intended to harm the reputation of the complainant.”

8. In the case, as discussed above, there are personal imputations by making defamatory remarks in the general body meetings and also sending E.Mails. There is specific overt act that the respondent No.1/complainant collected Rs.60 lakhs of fee from two students without any authorization and the same was not entered in the academy books. It is also alleged on enquiry, the accounts Manager stated that the said money was collected and utilized by respondent No.1. Further allegation is that 1 crore which was taken by Dr. Narsa Raju was utilized by respondent No.1. Still there are 50 lakhs to be collected by Accounts Department from respondent No.1 but not purchased any land in Tadepalli. It is further alleged that 1 crore was handed over to a person sent by respondent No.1-NRIAS cashier but not to Dr. Raju garu. Finally, it is alleged that respondent No.1 will take over the NRIAS medical college and nothing will be left. Further remarks in complaint are that petitioner made those remarks and published by way of E.Mails by sending them to one and all about the complainant are false, baseless and highly defamatory with an intention to defame respondent No.1, who worked as Minister in the Andhra Pradesh Government and to lower down his reputation in general public and friends.

9. It is pertinent to note that, before filing complaint, respondent No.1 issued E.Mail legal notice calling upon the petitioner/accused to pay sum of Rs.5 crores as damages and also sent unconditional apology to one and all to whom he sent E.Mails. In the decision placed supra by the petitioner, it is

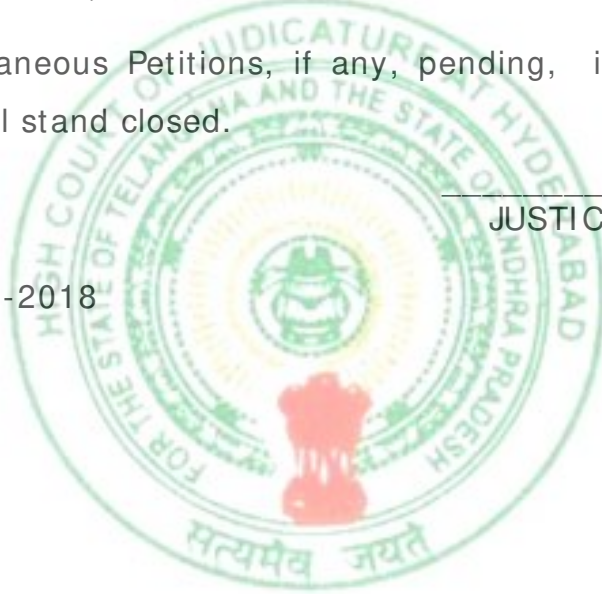
mentioned that the statement is made in good faith. Whereas, the defamatory statements in the general body meetings and also sending information to one and all through E.Mails, prima facie made out a case against the petitioner and the said decision has no application to the present case. By giving such complaint, respondent No.1 has not abused any process of Court or caused any prejudice to the petitioner. Hence, absolutely there are no grounds to quash the impugned proceedings.

10. In the result, this Criminal Petition is dismissed.

Miscellaneous Petitions, if any, pending, in this Criminal Petition, shall stand closed.

JUSTICE N. BALAYOGI

Dated: -03-2018
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