

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.4063 of 2018

ORDER:

In this petition, filed under Section 482 Cr.P.C, petitioner – accused seeks to quash the proceedings against him in Crime No.87 of 2018 of Nandigama Police Station, Krishna District, registered for the offences under Sections 341 and 506 IPC.

2. Brief facts of the case are that the *de facto* complainant applied for lease of 25 hectares of land for Raghavapuram bund and obtained lease from the Mining Department and, from 23.12.2017, he was conducting quarry works in order to clear the bund work, and handover an extent of Ac.26.82 cents of land to Nandigama town for the purpose of G+3 houses construction. Under the said scheme, 2500 families are going to be benefited by the allotment. At that stage, the petitioner – accused started threatening him in many ways by demanding Rs.10.00 lakhs. He threatened unless the amount was paid, he would not allow him to complete the works. Because of fear, the *de facto* complainant did not inform this fact to anybody. While so, on 13.03.2018, the accused filed W.P.No.8363 of 2018 alleging that the *de facto* complainant conducted illegal mining. The *de facto* complainant is contesting the said writ petition and the same is pending. On 26.03.2018 when the *de facto* complainant went to TDP Office of Nandigama in his vehicle along with his son, the accused who was present

near a tree situated opposite to TDP Office, obstructed him and threatened that he would kill him unless an amount of Rs.10.00 lakhs was paid to him. Hence the complaint.

3. Investigation is reported to be pending.

4. Denying the allegations, learned counsel for the petitioner would seek for quashing of the proceedings on the main submission that since the petitioner filed writ petition challenging illegal mining activities of the second respondent – *de facto* complainant, he resorted to filing a false complaint against him. Learned counsel would further submit that, even if the complaint allegations are taken to be true, the offence under Section 341 IPC is not sustainable since there was no wrongful restraint caused by the petitioner – accused; the other Section 506 IPC is a non-cognizable offence and, therefore, police ought not to have taken up investigation straight away without permission of the Court. Thus, at any rate, that the FIR is liable to be quashed.

5. In oppugnation, learned Additional Public Prosecutor would argue that, as per the complaint allegations, when the *de facto* complainant was proceeding to TDP Office, petitioner – accused obstructed him and offered threat to his life and, therefore, his acts would amount to offence under Sections 341 and 506 IPC and, since investigation is at the inceptional stage, it would be too early to quash the proceedings. He, thus, prayed to dismiss the petition.

6. A perusal of the complaint allegations would show *prima facie* accusation. Whether the charge under Section 341 IPC is ultimately maintainable or not is a matter of investigation. So also, the offence under Section 506 IPC. Therefore, investigation must lead to its logical conclusion. However, having regard to the fact that the petitioner - accused had filed W.P.No.8363 of 2018 which is pending, and the complaint was lodged subsequent to the said writ petition, the Investigating Officer shall strictly follow the guidelines rendered by Hon'ble Apex Court in the decision reported in **Arnesh Kumar vs. State of Bihar**¹ and also the procedure contemplated under Section 41-A Cr.P.C towards the petitioner - accused during the course of investigation. In turn, the petitioner - accused shall cooperate with the investigating agency for smooth completion of investigation.

7. Accordingly, this Criminal Petition is disposed of. Miscellaneous petitions, if any pending, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 18.04.2018
Note:CC tomorrow
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¹ AIR 2014 SC 2756P