

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.4386 OF 2018

This criminal petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed by the petitioner to quash the proceedings in C.C. No.270 of 2017 on the file of Judicial Magistrate of First Class, Puttur, Chittoor District.

The Sub-Inspector of Police filed charge sheet against the petitioner for the offence punishable under Sections 341, 342, 344, 374 and Sections 9, 16, 17 and 18 of Bonded Labour System (Abolition) Act alleging that the petitioner own a rice mill, he engaged L.Ws.2 to 6 by giving an amount of Rs.20,000 to L.W.2, Rs.20,000/- to L.W.6, Rs.15,000/- to L.W.10, Rs.20,000/- to L.W.12, Rs.30,000/- to L.W.14 respectively towards advance by inducing them to provide room for taking their shelter, vegetables etc. Taking advantage of the amount advanced, the petitioner forced to work in the rice mill around the clock by paying meager amount which is below the minimum wages. Therefore, the petitioner allegedly committed the offences referred above.

In the present petition, the only ground urged before this court is that the cognizance of the offence is barred by limitation under Section 468 Cr.P.C. and no condonation of delay was obtained by the prosecuting agency and on the sole ground, the proceedings are liable to be quashed at the threshold itself.

During hearing, Sri B.Sesi Bushan Rao, learned counsel for the petitioner reiterated the contention and prayed to allow the petition.

The Public Prosecutor (A.P.) opposed the petition on the ground that for registration of crime there is no limitation, but limitation cannot be considered at the threshold and prayed to dismiss the petition.

All the offences are punishable with imprisonment for one year and 3 years respectively and the petitioner is admittedly owner of the mill, the above persons are working in the mill, but whether he paid advance amount as stated above is not a disputed question, but the question is whether taking cognizance of the offence is barred by limitation as the offences are punishable with imprisonment minimum of one year and maximum of three years.

Approaching the court at a belate stage for a rightful cause, or even for the violation of the fundamental rights, has always been considered as a good ground for its rejection at the threshold. The ground taken by the learned counsel for the second respondent that the cause of action arose long back prior to the lodging the report. In **Rabindra Nath Bose & Ors., v. Union of India & Ors.**,¹ the Constitutional Bench of the Apex court held that inspite of the fact that the Government rejected a representation and communicated such rejection to the applicant therein, his subsequent representations were entertained by the Government and further held as under:

“...the representations were being received by the Government all the time. But there is a limit to the time which can be considered reasonable for making

¹ AIR 1970 SC 470

representations. If the Government has turned down one representation, the making of another representation on similar lines would not enable the petitioners to explain the delay”

In **State of Orissa v. Sri Pyarimohan Samantaray & Ors.**²
State of Orissa v. Shri Arun Kumar Patnaik and another³ and
Swatantar Singh v. State of Haryana and others⁴ a similar view
has been reiterated.

The view taken by this Court in **Rabindra Math Bose**
(referred supra) has been approved and followed in **Sri Krishna
Coconut Co. etc. v. East Godavari coconut and Tobacco
Market Committee**⁵, **Karnataka Power Corporation Ltd., and
another v. K.Thangappan and another**⁶ and **Eastern Coalfields
Ltd. V. Dugal Kumar**⁷ while dealing with the cases inordinate
delay in launching the prosecution as under:

*“In cases where there is a delay in lodging a
F.I.R., the Court has to look for a plausible
explanation for such delay. In absence of such an
explanation, the delay may be fatal. The reason for
quashing such proceedings may not be merely that
the allegations were an afterthought or had given a
coloured version of events. In such cases the court
should carefully examine the facts before it for the
reason that a frustrated litigant who failed to
succeed before the civil court may initiate criminal
proceedings just to harass the other side with
malafide intentions or the ulterior motive of
wreaking vengeance on the other party. Chagrined
and frustrated litigants should not be permitted to*

² AIR 1976 SC 2617

³ AIR 1976SC 1639

⁴ AIR 1997 SC 2105

⁵ AIR 1967 SC 973

⁶ AIR 2006 SC 1581

⁷ AIR 2008 SC 3000

give vent to their frustrations by cheaply invoking the jurisdiction of the criminal court. The court proceedings ought not to be permitted to degenerate into a weapon of harassment and persecution. In such a case, where an F.I.R. is lodged clearly with a view to spite the other party because of a private and personal grudge and to enmesh the other party in long and arduous criminal proceedings, the court may take a view that it amounts to an abuse of the process of law in the facts and circumstances of the case”

Thus, the court has to examine the facts of each case based on material and on the ground of limitation, the complaint cannot be dismissed at the threshold, the offence in this case *prima facie* is continuous offence. Therefore, at this stage I am not inclined to quash the proceedings on the ground of limitation. However, the petitioner is at liberty to raise this plea before the court at appropriate stage before the trial court during trial.

In the result, the criminal petition is dismissed leaving it open to raise such plea before the trial court.

As a sequel, miscellaneous petitions, if any, pending shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 01.05.2018

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