

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.5225 OF 2018

ORDER:

This criminal petition is filed under Section 482 Cr.P.C to quash the proceedings in Crime No.113 of 2016 on the file of Gachibowli Police Station, Cyberabad District, for the offences punishable under Sections 147, 452, 324, 506, 427, 342, 353 r/w 149 IPC & Section 3 of Prevention of Damage to Public Property Act, 1984 (PDPP Act).

The facts of the case in brief are that, the petitioner is prosecuting his studies in University of Hyderabad. The Registrar, In-Charge of University of Hyderabad lodged a report with the Station House Officer, Gachibowli on 22.03.2016 alleging that, Vice-Chancellor, University of Hyderabad, re-joined his duties on 22.03.2016 and at 9:00 a.m. in the Vice-Chancellor met faculty members, non-teaching staff and students. At 10:00 a.m. he had convened a meeting of all Deans, Internal EC Members, Director, College for integrated studies, Chief Proctor and other staff. While the meeting was going on, around 100 students led by Munna, Ramjee, Vijay Kumar, Lingam, Sanjay, Seshaih, Venkatesh Chauhan. Kesaban Roy Choudary Dontha Prasanth, came to the lounge, jumped over the main gate, broke-open the main door, windows/ door glass panes and entered the premises of Vice-Chancellor's lounge. These students further became violent and ransacked the Vice-Chancellor's lounge. They have also damaged the TV, furniture, computers and laptop. They were prevented from

entering the main room because of students and faculty members and thus saved the Vice-Chancellor's from physical harm. However, few of the faculty and students were injured because of the stone throwing and broking glass panes. The Chief Proctor had to be admitted in the hospital because of the tension and blood-pressure. The Vice Chancellor, Deans of Schools and other senior faculty were confined in the room for more than 6 hours till the police had arrived and rescued them. They sat in the lawn for several hours and raised the slogans against the Vice-Chancellor and other members of the university. It is stated that the act of violence indulged by these students caused enormous damage to public property besides threatening the people inside Vice-Chancellor's lounge. Thus, the petitioner along with Munna, Ramjee, Vijay Kumar, Lingam, Sanjay, Seshaih, Venkatesh Chauhan. Kesaban Roy Choudary Dontha Prasanth and 100 other students committed offences punishable under Sections 147, 452, 324, 506, 427, 342, 353 r/w 149 IPC & Section 3 of Prevention of Damage to Public Property Act, 1984 (PDPP Act).

On the strength of the complaint dated 22.03.2016, a crime was registered and F.I.R was issued for the offences referred supra.

The present criminal petition is filed by the petitioner who is Accused No.10, whose name is not specifically recorded in the written report lodged with the police by the In-Charge Registrar of the University. The main contention before this Court is that, no such incident took place and this petitioner did not participate in the incident either directly or indirectly and the case was falsely foisted against him.

During hearing, learned counsel for the petitioner would contend that the F.I.R did not disclose active participation of this petitioner in the incident, except making a bald allegation that persons named Munna, Ramjee, Vijay Kumar, Lingam, Sanjay, Seshaih, Venkatesh Chauhan. Kesaban Roy Choudary Dontha Prasanth and 100 other students committed the offences stated supra. Since, the name of the petitioner is not found in the F.I.R, or in the written complaint, crime cannot be registered and the investigating agency cannot proceed against the petitioner.

Learned counsel for the petitioner also contended that, if really, the petitioner had committed such offences, the Vice-Chancellor/Registrar is competent to take disciplinary action against this petitioner on administrative side. But, so far, no action has been taken for committing such acts and for violating the disciplinary rules of the University and allowed to prosecute studies further. Therefore, when the University did not take any administrative action against the petitioner, the proceedings against the petitioner are liable to be quashed. As such, the petitioner sought for quashment of Crime No.113 of 2016 on the file of Gachibowli Police Station, Cyberabad District.

Whereas, learned Public Prosecutor for the State of Telangana opposed the petition on the ground that, at the crime stage, the proceedings cannot be quashed when the facts are incomplete and hazy, irrespective of the magnitude of law and fact.

The power of this Court under Section 482 Cr.P.C is inherent and notwithstanding anything contained in the provisions of Cr.P.C be deemed to limit or affect the inherent powers of the High

Court to make such orders as may be necessary to give effect to any order under Cr.P.C, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. The powers of this Court under Section 482 Cr.P.C are limited and the allegations made in the complaint, if constitutes an offence on its face value, the Court cannot exercise its power under Section 482 Cr.P.C to quash the proceedings. Such power can be exercised to give effect to the orders passed by the Court and to prevent abuse of the process of the Court or to meet the ends of justice, such power cannot be exercised as a matter of routine. But, while deciding such application the Court has to apply its mind to the facts and verify whether those allegations would attract any of the findings either under IPC or under penal law on its face value.

In **State of Haryana v. Bhajan Lal**¹ this Court considered in detail the provisions of Section 482 and the power of the High Court to quash criminal proceedings or FIR. This Court summarized the legal position by laying down the following guidelines to be followed by High Courts in exercise of their inherent powers to quash a criminal complaint:

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an

¹ 1992 Supp. (1) SCC 335

order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non- cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

In **State of Haryana v. Bhajan Lal** (referred supra) this Court considered in detail the scope of provisions of Section 482 and the power of the High Court to quash criminal proceedings or FIR. The Apex Court summarized the legal position by laying down the following guidelines to be followed by High Courts in exercise of

their inherent powers to quash a criminal complaint which are mentioned supra.

In **R.P. Kapur v. State of Punjab**², the Apex Court held as follows:

- (i) Where institution/continuance of criminal proceedings against an accused may amount to the abuse of the process of the court or that the quashing of the impugned proceedings would secure the ends of justice;
- (ii) where it manifestly appears that there is a legal bar against the institution or continuance of the said proceeding, e.g. want of sanction;
- (iii) where the allegations in the First Information Report or the complaint taken at their face value and accepted in their entirety, do not constitute the offence alleged; and (iv) where the allegations constitute an offence alleged but there is either no legal evidence adduced or evidence adduced clearly or manifestly fails to prove the charge.

In view of the guidelines laid down by the Apex Court in the judgments referred supra, if the allegations in F.I.R. on its face value, if, taken into consideration and accepted, it constitutes an offence, *prima facie* if proved. The Court cannot interfere, except when the Court comes to a conclusion that it is an out come of abuse of process of law. Therefore, when the allegations made in the F.I.R. or charge sheet disclosed commission of an offence punishable under the provisions of the Indian Penal Code, this Court cannot exercise its inherent power to quash the proceedings.

It is an undisputed fact that the allegations made in the written report lodged with the police contained that the persons named Munna, Ramjee, Vijay Kumar, Lingam, Sanjay, Seshaih, Venkatesh Chauhan. Kesaban Roy Choudary Dontha Prasanth

² AIR 1960 SC 866

and 100 other student s committed the offences referred supra. But, it is difficult to name each and every person in the written report lodged with the police in normal course, more particularly, when a mob of students in the University are involved in the incident. Even otherwise, the First Information Report is only an information to the police about commission of a cognizable offence to set the criminal law into motion and that the First Information Report need not disclose minute details and it is not an encyclopedia of facts. Therefore, when the petition is filed under Section 482 Cr.P.C at the crime stage, the Court must be put on guard to exercise such power.

In **State of Orissa v. Saroj Kumar Sahoo**³, the Supreme Court had an occasion to deal with the scope of Section 482 and held that the inherent powers under Section 482 Cr.P.C should not be exercised by the High Court to stifle a legitimate prosecution. The Apex Court also held that the High Court being the highest Court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. The Supreme Court also held that there is no hard and fast rule laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. Further, it was also held that while exercising jurisdiction under Section 482 of Cr.P.C, it is

³ (2005) 13 SCC 540

not permissible for the court to act as if it was a trial Court. Even when charge is framed at that stage, the Court has to only *prima facie* be satisfied about existence of sufficient ground for proceeding against the accused. For that limited purpose, the Court can evaluate material and documents on records but it cannot appreciate evidence. The Court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused.

In the present case, investigation is not yet commenced, as per the record produced before the Court and when the investigation is at the foetus stage, this Court cannot exercise such power and the criminal petition is liable to be dismissed.

However, the learned Public Prosecutor produced statements of 7 witnesses and a report from the police. The material collected so far is sufficient to conclude that this petitioner committed crime *prima facie* and the petitioner was identified as one of the participants. Therefore, there is a *prima facie* material to proceed against this petitioner for the offences referred supra. Hence, I find no ground to quash the proceedings by exercising inherent jurisdiction at this stage.

In the result, the criminal petition is dismissed.

Consequently, miscellaneous applications pending if any, shall also stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:06.06.2018

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