

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 5284 OF 2018

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') to quash the proceedings in crime No. 91 of 2018 of Balapur Police Station, Rachakonda, registered for the offences punishable under Sections 195-A, 506, 324 and 427 read with Section 34 of IPC.

2. One A.Bhargavi-respondent No. 2 lodged report dated 03-04-2018 with Balapur Police alleging that on 03-01-2018, she received summons from Court and in obedience to the same, she attended the Court on 15-02-2018 and while she was returning from the Court, the petitioners, who are accused in her earlier complaint, pressurized her to enter into compromise and also threatened to kill her; that on 12-03-2018 while she was returning to her house after attending the Court, the petitioners allegedly came from her rear side on a bike and hit her with a stick and also threatened to kill her if she does not enter into compromise with them by the next date of hearing and when she tried to contact her husband over mobile phone, the petitioners snatched it and broke the same. On the strength of the report, the police registered a crime and issued F.I.R.

3. The present petition is filed to quash the proceedings on the ground that one criminal case filed by respondent No. 2 is already pending against the petitioners for the offences punishable under Sections 354-A and 506 of IPC in crime No. 134 of 2017 and to wreak vengeance against the petitioners, respondent No. 2 filed the present report; that when a case is already pending against the petitioners, question of again committing such offence would not arise and that there is a delay of 20 days in lodging the report and the delay itself

prima facie indicates that the present complaint is aimed to harass the petitioners.

4. At the hearing, while learned counsel for the petitioners reiterated the grounds urged in the petition, learned Public Prosecutor (T.S.) has opposed the petition on the ground that the allegations made in the complaint would constitute the above offences *prima facie*, if those allegations are taken on its face value and that no other material is on record to conclude that the present complaint is lodged with a view to wreak vengeance against the petitioners.

5. The undisputed facts are that earlier crime No. 134 of 2017 was registered against the petitioners on the complaint given by respondent No. 2 for the offences punishable under Sections 354-A and 506 of IPC; that respondent No. 2 received summons from Court in the above crime and that she attended the Court on two occasions. On 12-03-2018 while respondent No. 2 was returning to home after attending the Court, the petitioners allegedly came from her rear side on a bike and beat her with a stick while threatening to kill her if she fails to compromise the case with them and when she made an attempt to telephone to her husband, the petitioners snatched the mobile phone from her hands and damaged the same. The above allegations if accepted on their face value, they would certainly constitute the above offences *prima facie*.

6. Yet, another contention raised by learned counsel for the petitioners is that petitioner No. 1 lodged complaint dated 03-01-2018 against respondent No. 2 which is the subject matter in F.I.R.No. 135 of 2017 and thus there are case and counter case and in such case, there is every possibility of foisting false case against the petitioners. No doubt, motive is relevant under Section 8 of Indian Evidence Act and it is a double edged weapon. Motive may be one of the causes for foisting a false case by the *de facto* complainant or to commit such

offences by the petitioners. Motive is not a substantive piece of evidence. Therefore, on this ground, the Court cannot quash the proceedings.

7. The Apex Court in State of **Orissa Vs. Saroj Kumar Sahoo**¹ held that the inherent powers under Section 482 of Cr.P.C. should not be exercised by High Court to stifle a legitimate prosecution. 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. In the case on hand, the investigation is at the threshold and at this stage, this Court cannot exercise its inherent jurisdiction under Section 482 of Cr.P.C. to quash the proceedings, more particularly when the allegations made in the complaint would constitute the above offences.

8. In view of my foregoing discussion, I find no ground to quash the proceedings at this stage and the criminal petition is liable to be dismissed.

9. The criminal petition is accordingly dismissed. Pending miscellaneous petitions, if any, in this criminal petition shall stand dismissed in consequence.

Date: 07-06-2018.

JSK

M.SATYANARAYANA MURTHY, J.

¹ (2005) 13 SCC 540