

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.5606 of 2018

ORDER

This petition is filed under Section 482 Cr.P.C., to quash the proceedings in F.I.R. No.216 of 2017 of Kattangur Police Station, Nalgonda District, registered for the offences punishable under Sections 417, 376 IPC and Section 3(1)(r)s and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 2015, on various grounds.

The main ground urged by the petitioners is that they did commit no offence and that the crime was registered without following the guidelines issued by the Apex Court in **Dr. Subhash Kashinath Mahajan v State of Maharashtra and another¹**.

During arguments learned counsel for the petitioners while reiterating the grounds urged in the petition, drawn the attention of the Court to the case diary and the statements recorded by the police.

At this stage, this Court cannot exercise power under Section 482 Cr.P.C. as held by the Apex Court in **Umesh Kumar v. State of Andhra Pradesh and another²** that at the stage of exercising power under Section 482 Cr.P.C., the High Court could examine the charge sheet, case diary and other material in the charge sheet which by no means can be terms as substantive evidence. However, in exercise of power under Section 482 Cr.P.C, it is not permissible for the High Court to appreciate the evidence as it can only evaluate material documents on record to the extent of its prima facie satisfaction about the existence of sufficient ground for proceedings against the accused and the court cannot look into materials, the acceptability of which is essentially a matter for trial. Any document filed along with the petition labelled as evidence without being

¹ 2018 Law Suit (SC) 233

² 2013 (10) SCC 591

tested and proved, cannot be examined. Law does not prohibit entertaining the petition under Section 482 Cr.P.C. for quashing the charge sheet even before the charges are framed or before the application of discharge is filed or even during its pendency of such application before the court concerned. The High Court cannot reject the application merely on the ground that the accused can argue legal and factual issues at the time of the framing of the charge. However, the inherent power of the court should not be exercised to stifle the legitimate prosecution but can be exercised to save the accused to undergo the agony of a criminal trial.

Therefore, this Court cannot appreciate evidence on record since the statements recorded under Section 161(3) Cr.P.C. are not substantive evidence as on today. Further it is the obligation of the investigating officer to follow the guidelines issued by the Apex Court in **Dr Subhash Kashinath Mahajan** referred supra and hence, the Investigating Officer is directed to follow the said guidelines.

With the above direction, the criminal petition is disposed of.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTHY, J

08.06.2018
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