

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.5625 of 2018

ORDER

This petition is filed under Section 482 Cr.P.C., to quash the proceedings in F.I.R.No.55 of 2018 of Peddemul Police Station, Vikarabad District, registered for the offence punishable under Sections 420, 504, 506 read with 109 IPC and Section 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 2015, on various grounds.

The petitioner is A2 in the above crime and 2nd respondent is the *de facto* complainant. The 2nd respondent lodged report with the police on 15.04.2018 alleging that he belongs to schedule caste and owned agricultural land in Survey No.141/AA admeasuring Ac.02.06 guntas. The father of the 2nd respondent was an illiterate and addicted to vices like drinking and taking advantage of the illiteracy and addiction to vices, A1 by making false promises obtained registered sale deed in the name of the petitioner as binami and the said fact is not known to the 2nd respondent and others till the date of lodging the report. On coming to know about the same, they questioned him. Thereupon, A1 abused the 2nd respondent as madiga lanja koduka. Later on 14.04.2018 when A1 came to Kandanelly Village on the occasion of Ambedkar Jayanthi, the *de facto* complainant and his brother Laxmappa went there at about 11.00 AM, the *de facto* complainant called to nearby place and requested to execute sale deed in their favour or pay amount by touching his feet. But he abused the *de facto* complainant as Madiga lanja koduka. Thus, the petitioner and other accused allegedly insulted the *de facto* complainant in public view raising his caste name.

The main contention of the petitioner is that no specific overt act is attributed to the petitioner more particularly about insulting the *de facto* complainant raising his caste name within the public view, except making

allegation that he is binami of A1. Therefore, in the absence of any allegation against the petitioner, the investigating agency cannot proceed against him and prayed to quash the proceedings.

Learned Public Prosecutor opposed the petition on the ground that the investigation is not yet commenced.

The scope of Section 482 Cr.P.C is limited and this Court can exercise its inherent jurisdiction only to give effect to the orders passed under the Code to prevent abuse of process of the Court and to secure the ends of justice. In **State of Haryana v Bhajanlal**¹, the Apex Court laid down the following seven guidelines:

“(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 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

¹ 1992 Supp(1) SCC 335

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."

The only ground urged in this petition is that there was no allegation against the petitioner to constitute the offence. The property is registered in the name of the petitioner allegedly by the father of the *de facto* complainant at the instance of A1. Whether father of the *de facto* complainant is binami or not is a question to be decided only after investigation, but at this stage, it is difficult to express any opinion, even otherwise this Court cannot appreciate the fact while exercising power under Section 482 Cr.P.C.

No doubt there is no specific allegation against the petitioner, but FIR is only a information to the police about the commission of cognizable offence and it need not contain minute details since it is not encyclopaedia of fact. Apart from that the investigation in this case is not yet commenced.

Normally, this Court would not exercise its inherent jurisdiction when the investigation is not yet commenced irrespective of the magnitude of facts and law. When the facts are incomplete and hazy before the Court, as held by the Apex Court in “**State of Orissa v. Saroj Kumar Sahoo**²” that the inherent powers under Section 482, Cr. P.C. should not be exercised by the 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,

² (2005) 13 SCC 540

whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard and fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. While exercising jurisdiction under Section 482 of the Cr. P.C., it is 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. Therefore, I find no grounds to quash the proceedings. However, leaving it open to the petitioner to renew his request at appropriate stage.

Accordingly, the criminal petition is dismissed.

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

M. SATYANARAYANA MURTHY, J

08.06.2018
kvrm