

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.6438 of 2018

ORDER:

This criminal petition is filed under Section 482 of Cr.P.C., to quash the proceedings in Cr.No.126 of 2018 of Kodad Town Police Station, Suryapet District, registered for the offences punishable under Sections 380 and 506 IPC, against the petitioner/A1.

2. The second respondent herein lodged a complaint alleging that her husband, by name Kunduri Veera Reddy, was doing lorry transport business and heavily indebted to some persons and the Bank officials seized the transport office for non-payment of the loan dues. She further alleged that her husband kept a bag containing 8 blank signed cheques and 8 promissory notes of him and two blank signed cheques and two promissory notes of his younger brother, by name, Kunduru Naveen, in the house situated at Srimannarayana Colony, Kodad Town. While so, on 21.03.2018 at 3.00 PM, in the absence of her husband, A1 along with three unknown persons came in a car, criminally trespassed into their house and threatened her to handover the bag containing the cheques and promissory notes, otherwise they would kill her and they took away the bag from her house and while leaving the house, they also warned her that they know one Narsireddy, Naxalite, and if she files any complaint, he will kidnap her husband and kill him. At that time, the neighbourers, who intervened, were also threatened by the accused. After the incident, she telephoned to her husband, but he did not

lodge the complaint to the police as he is economically and politically sound. Thereafter, she filed a private complaint and the same was taken on file by the Court as C.F.No.652 of 2018 and directed her to file a complaint before the police. Hence, she filed the present complaint.

3. The petitioner/A1 filed the present petition on the ground that the complaint was registered on 08.05.2018 to set up a defense in a cheque bounce case wherein notice was issued to the husband of the de-facto complainant on 27.04.2018 calling upon him to pay the amount covered by the dishonoured cheque etc. It is further contended that the allegations made in the complaint do not constitute the offences under Sections 380 and 506 IPC and prayed to quash the proceedings.

4. Learned counsel for the petitioner contended that on receipt of notice dated 27.04.2018, the present complaint is filed creating a story of commission of above offences with a view to set up a defense in a cheque bounce case and even otherwise, the allegations made in the complaint would not constitute the aforesaid offences and prayed to quash the proceedings against the petitioner.

5. This petition is filed under Section 482 of Cr.P.C. and this Court can exercise inherent power in exceptional circumstances only to give effect to the orders passed by the Court and to prevent abuse of process of the Court or to meet the ends of justice. The

Apex Court in **State of Haryana v. Bhajanlal**¹, laid down the following 7 guidelines;

- (a) 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;
- (b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. 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;
- (c) where the uncontroverted 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;
- (d) 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;
- (e) 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;
- (f) 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;
- (g) 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 view of the aforesaid guidelines, if the allegations made in the FIR

¹ 1992 Supp(1) SCC 335

are accepted on its face value, it would constitute the offences alleged and this Court cannot quash the proceedings. In the present case, the allegations made in the complaint disclose the commission of offence by the accused on its face value, but at this stage, this Court cannot appreciate the evidence.

6. As seen from the allegations made in the complaint, the reason for failure of the husband of the second respondent to lodge a complaint before the police is life threat as the accused allegedly threatened that they got acquaintance with one Narsireddy, Naxalite and therefore, the second respondent lodged a private complaint before the Magistrate on 27.03.2018. Even if the complaint was returned with an advise to lodge a report to the police, lodging a report with the police on 08.05.2018 is another circumstance pointed out by the counsel for the petitioner to quash the proceedings. But delay alone is not the ground to quash proceedings and the delay, if any, is explained during trial to the satisfaction of the Court, as delay is insignificant. Therefore, on the ground of delay, the proceedings cannot be quashed. Moreover, the Court cannot exercise its power under Section 482 of Cr.P.C. to stifle the legitimate prosecution when the material is incomplete and hazy before the Court irrespective of the magnitude of the fact and law as held by the Apex Court in **State of Orissa v. Saroj Kumar Sahoo**² and in **Kurukshetra University v. State of Haryana**³. Therefore, when the investigation is not yet commenced, this Court cannot exercise its power under Section 482

² (2005) 13 SCC 540

³ AIR 1977 SC 2229

of Cr.P.C., to quash the proceedings and the criminal petition is liable to be dismissed.

7. In the result, the Criminal Petition is dismissed. However, the police concerned are directed to follow the procedure under Section 41-A Cr.P.C. and the guidelines issued by the Apex Court in **Arnesh Kumar v. State of Bihar**⁴. Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTHY, J

21st June, 2018

sj



⁴ (2014) 8 SCC 273