

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 13999 OF 2014

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. 318 of 2014 of Falaknuma Police Station, Hyderabad, registered for the offences punishable under Section 354-A of IPC and Section 3 (i) (Xi) of SC ST POA Act.

2. The petitioners are working as Traffic Ticket Inspectors in TSRTC and the *de facto* complainant-respondent No. 2 is working as Conductor, TSRTC, Falaknuma Bus Depot, Hyderabad. Respondent No. 2 lodged a written report with the police alleging that on 01-09-2014 at about 20.00 hours while she was returning to bus depot along with driver Chennaiah after completing the fourth trip in Charminar route, the petitioners stopped the bus and asked the driver to get down from the bus and said that if they book a case against her, she may lose her job and saying so, they asked her phone number; that on the same night at 22.00 hours, petitioner No. 1 called her over phone and said that he was waiting for her and if she comes, he would drop her in his jeep, for which she refused and that thereafter, the petitioners started harassing her sexually and abusing her by touching her caste name to fulfill their lust and also threatened that if she does not fulfill their lust, they remove her from service. On the strength of the written report of respondent No. 2, the above crime was registered and issued F.I.R.

3. The present petition is filed by the petitioners to quash the proceedings on the ground that the petitioners earlier issued charge memo dated 01-09-2014 to respondent No. 2 as the latter committed certain irregularities while discharging duties and that the present report was lodged only after issuing charge memo to

avoid the departmental proceedings which is nothing but an abuse of process of law.

4. Though notice was served on respondent No. 2, neither she appeared nor represented.

5. As seen from the material on record, while the incident took place on 01-09-2014 even according to the allegations made in the report, the same was conveniently reported to the police on 17-10-2014 after receiving the charge memo dated 01-09-2014. It appears from the record that the petitioners are employees in TSRTC and working to the utmost satisfaction of the Corporation and received letters of appreciation and also cash reward. It is evident from the record that the report was lodged only as an afterthought to wreak vengeance against the petitioners. In similar circumstances, this Court in ***Gunda Sampath Vs. State of A.P., represented by its Public Prosecutor***¹, observed that now, it has become a threat to every officer from the staff to those belonging the Scheduled Castes and Scheduled Tribes which drastically affects the administration in the offices and any officer demands employee belonging to those castes to do work, they are simply lodging complaints against the supervising officers whereby they have to face criminal charges and there is a bar for granting a pre-arrest bail in view of Section 18 of the SC ST (POA) Act also. Thus, it is difficult for any officer to discharge their duties effectively on account of this anomalous situation and it would lead to anarchy in day to day administration and in discharging their official duties. Therefore, to avoid such anarchy and to have effective control over the staff by the supervisor irrespective of they belonging to any caste or community, the Court has to prevent such abuse of process of law by exercising power under Section 482 of Cr.P.C. which

¹ 2017 (2) ALT (CrI.) 271 (A.P.)

permits the Court to exercise such power to implement the order passed under the Code or to prevent abuse of process of law or to meet the ends of justice. Similar situation arose in **Dr. Subhash Kashinath Mahajan Vs. State of Maharashtra**², which led the Apex Court to issue certain guidelines to be followed by investigating agency when crime against offence is registered under the provisions of SC ST (POA) Act.

6. The Apex Court in **State of Haryana Vs. Bhajanlal**³ laid down seven guidelines which are as follows:

- "(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 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."

² CRL.A.No. 416 OF 2018 DATED 20-03-2018

³ 1992 Supp. (1) SCC 335

According to guideline No. 7, if the Court finds 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 against the accused and with a view to spite him due to private and personal grudge, the Court can quash the proceedings. Here in this case, the report was lodged by respondent No. 2 as an afterthought taking advantage of her caste being a member of ST Community to wreak vengeance against the petitioners and to avoid the departmental proceedings initiated against her. The case on hand would fall within the ambit of guideline No. 7. I, therefore, find that it is a fit case to quash the proceedings against the petitioners.

7. The criminal petition is accordingly allowed quashing the proceedings in crime No. 318 of 2014 of Falaknuma Police Station, Hyderabad City. Pending miscellaneous petitions, if any, in this criminal petition shall stand closed in consequence.

Date: 20-06-2018.

JSK

M.SATYANARAYANA MURTHY, J.

