

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.7565 OF 2018

ORDER:

This criminal petition is filed under Section 482 Cr.P.C to quash the proceedings in C.C.No.380 of 2017 on the file of Judicial First Class Magistrate, Kamalapuram, Kadapa District, registered for the offences punishable under Sections 406, 420, 506 r/w 34 IPC.

The dispute is with regard to operation of business transaction within particular area i.e. Kadapa, Kurnool, Chittoor and Ananthapuram and later, the parties entered into compromise and returned the amount. The defacto complainant/first respondent herein addressed a letter to the Station House Officer on 04.11.2016 with a request to close the complaint, in view of the settlement and copy of agreement entered by the parties on 26.10.2016, also placed on record and stating that they settled the dispute outside the Court.

Continuation of the proceedings and filing charge sheet after making a request to close the complaint, in view of settlement arrived by the parties is an abuse of process of the Court and requested to quash the proceedings.

None appeared on behalf of the first respondent, though notice was ordered and served on the first respondent and proof of service is also filed.

Learned counsel for the petitioners reiterated the contentions urged in the petition, whereas, learned Public Prosecutor for the

State of Andhra Pradesh requested this Court to pass orders after hearing the first respondent.

As per the material on record, letter addressed by the first respondent to the police on 04.11.2016 requesting to close the complaint given against the Managers, Andhra Pragathi Grameena Bank, State Bank of India of Yerraguntla Branch, Sri Sushil Goenka, Krishna Kothapalli and Adinarayana of 3F Industries Limited, Hyderabad and drop all further proceedings, as the matter is settled outside the Court. The settlement agreement dated 26.10.2016 also made it clear that the dispute is settled between the parties where dispute is with regard to operation of business transaction within particular area i.e. Kadapa, Kurnool, Chittoor and Ananthapuram.

Even if the complaint alone is to be tried, it is a futile exercise of the Court, waste of time of the Court and parties, in view of the settlement arrived by the parties and continuation of proceedings after settling the matter is an abuse of process of the court.

In **State of Haryana v. Bhajan Lal**¹ the Apex Court considered in detail the provisions of Section 482 and the power of the High Court to quash criminal proceedings or FIR. The Apex Court summarized the legal position by laying down the following guidelines to be followed by High Courts in exercise of their inherent powers to quash a criminal complaint:

¹ 1992 Supp. (1) SCC 335

(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.

Therefore, in view of guideline no.7 of **Bhajan Lal** case (referred supra), 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 Court can exercise power under Section 482 Cr.P.C and quash the proceedings.

When an identical question came up for consideration in **Ruchi Agarwal v. Amit Kumar Agrawal and others**², the Supreme Court held that, taking into consideration of subsequent events and conduct of the parties, continuation of criminal proceedings is an abuse of process of the Court.

In view of the judgments referred supra, I find that it is a fit case to quash the proceedings against the petitioners/A-1 to A-3 in C.C.No.380 of 2017 on the file of Judicial First Class Magistrate, Kamalapuram, Kadapa District.

In the result, criminal petition is allowed.

Consequently, miscellaneous applications pending if any, shall also stand closed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date: 25.07.2018

SP

² (2005) 3 Supreme Court Cases 299