

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.9708 OF 2015

ORDER:

This criminal petition is filed by the petitioners/accused under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in C.C.No.26 of 2015 pending on the file of the IV Additional Judicial First Class Magistrate, Kakinada, East Godavari District, registered for the offence punishable under Sections 143, 341 read with 34 of Indian Penal Code (for short "I.P.C.").

The Village Revenue Officer, Thimmapuram Village, Kakinada lodged a report with the police on 21.08.2014 alleging that at about 23.30 hours he came to know that some people stopped the vehicles on the road and causing obstruction to the vehicles and people in front of Thimmapuram Police Station, for which he came to Thimmapuram Police Station and noticed that the petitioners herein under the leadership of accused Nos.1 and 2 formed into an unlawful assembly, stopped the vehicles and people passing on the road in front of Thimmapuram Police Station, caused obstruction to the vehicles and people by observing Dharna.

The present petition is filed to quash the proceedings on the ground that none of the allegations made in the complaint constitute offence punishable under Section 143 and 341 of I.P.C. since the public were not obstructed from moving in any direction, but the petitioners obstructed the public from moving in one direction by observing Dharna.

Learned Public Prosecutor for the State of Andhra Pradesh opposed the petition.

Section 143 of I.P.C. deals with punishment, but Section 143 of Cr.P.C. deals with removal of nuisance. In the present case, the crime was registered under Section 143 of I.P.C., which defined the word 'punishment'. Therefore, the allegations made in the complaint do not constitute any offence punishable under Section 143 of I.P.C.

The other offence allegedly committed by the petitioners is punishable under Section 341 of I.P.C. Section 341 of I.P.C. deals with punishment for wrongful restraint. The word "wrongful restraint" is defined under Section 339 of I.P.C., which is as follows:

339. Wrongful restraint:- Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

The allegation made in the charge sheet is that the petitioners herein by observing Dharna did not permit the public to move in a specific direction, but not in all directions. Therefore, the petitioners did commit no offence punishable under Section 341 of I.P.C. as defined under Section 339 of I.P.C. even if the allegations made in the charge sheet are accepted on their face value.

In "***State of Haryana v. Bhajan Lal***"¹ the Apex Court considered in detail the powers of High Court under 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

¹ 1992 Supp (1) SCC 335

the following guidelines to be followed by High Courts in exercise of their inherent powers to quash a criminal complaint:

- (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.

In view of the guideline No.4, when the allegations made in the complaint do not constitute any offence, this Court can exercise inherent power under Section 482 of Cr.P.C.

In view of my foregoing discussion, I find that it is a fit case to quash the proceedings in C.C.No.26 of 2015 pending on the file of the IV Additional Judicial First Class Magistrate, Kakinada, East Godavari District against the petitioners herein. The point is answered accordingly.

In the result, the criminal petition is allowed. The proceedings in C.C.No.26 of 2015 pending on the file of the IV Additional Judicial First Class Magistrate, Kakinada, East Godavari District, are hereby quashed against the petitioners herein. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

06.07.2018
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