

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Crl.P. No.8246 OF 2018

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. to quash the proceedings in Crime No.261 of 2018 of Medchal Police Station, registered for the offences punishable under Section 506 and 290 IPC.

Tudum Lingam, Sarpanch of Ellammapet Village, lodged report on 03.05.2018 with Cyberabad Police Commissioner alleging that he was elected as Sarpanch and during haritha haram programme certain coolies were engaged for watering plants. When the coolies engaged for watering plants, the petitioner is not allowing them to water plants and when the 2nd respondent questioned him as to why they are spending time sitting under the shadow of the trees, the petitioner threatened the 2nd respondent that if he spoke any more, he will kill him. Earlier also the petitioner obstructed the 2nd respondent from discharging his duties in participation of development works in the village, for which he lodged report with the police under SC & ST Act.

The petitioner filed this petition on various grounds and most of the grounds are with regard to the conducting investigation and registering crime without collecting any evidence. Based on the statements of witnesses, the police colluded with the *de facto* complainant and registered the above crime and issued FIR. It is also contended that without any corroborative evidence and without conducting any fair investigation the above crime was registered and issued FIR and that the complaint is motivated and collusive and prayed to quash the proceedings.

Learned Public Prosecutor opposed the petition.

The main endeavour of the petitioner is that he discharged his duties since long time and there were disputes between the petitioner and

the 2nd respondent lodged complaint with ulterior motive and issued certain proceedings, but none of the grounds were urged in the petition. Moreover, the report lodged with the police directly pointing out the complicity of the petitioner for the offence punishable under Section 506 IPC as the petitioner allegedly threatened the 2nd respondent to kill him, if he say anything more than that and this threat to kill the 2nd respondent fall within the definition of criminal intimidation under Section 503 IPC and such offence is punishable under Section 506 IPC. If the allegations made in the complaint are accepted on its face value, it constitute offence punishable under Section 506 IPC though not Section 290 IPC. Therefore, this Court cannot exercise power under Section 482 Cr.P.C. to quash the proceedings when the investigation is not yet commenced and the Apex Court in **State of Orissa v. Saroj Kumar Sahoo**¹ 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, 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

¹ (2005) 13 SCC 540

evidence to conclude whether the materials produced are sufficient or not for convicting the accused.

The law laid down by the Apex Court is applied to the present facts of the case at this stage, this Court cannot quash the proceedings as none of the grounds raised are sufficient to exercise power under Section 482 Cr.P.C. to quash the proceedings since question of collection of evidence and corroborative evidence will arise only during investigation and not at the stage of registration of crime based on written report lodged by the 2nd respondent. Therefore, the criminal petition is devoid of merits and the same is liable to be dismissed at the admission stage.

Accordingly, the criminal petition is dismissed.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

06.08.2018
kvrm



M.SATYANARAYANA MURTHY,J