

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.1749 of 2016

ORDER:

This Criminal Petition, under Section 482 Cr.P.C., is filed to quash the proceedings in C.C.No.492 of 2015 on the file of the Court of Additional Junior Civil Judge, Mangalagiri, Guntur District, registered for the offences punishable under Sections 353,506 and 509 IPC.

Second Respondent-Lanka Ravendra Prasad, Superintendent of MDO Office, Mangalagiri, lodged a report with police alleging that the petitioner deterred the *de facto* complainant and other employees in the office of MDO, Mangalagiri, Guntur, from discharging their duties when they refused to receive his application and second respondent and other employees refused to receive the application and requested to come later, he threatened them that he would give complaint to higher authorities and on account of such threats, they are unable to discharge their duties and he created terror in the minds of the employees and thereby they are not in a position to discharge their duties.

Based on the complaint, a case in Cr.No.47 of 2015 was registered by S.H.O., Mangalagiri I Town Police Station for the offences punishable under Sections 353, 506 and 509 IPC. Based on the FIR, the SI of Police took up investigation in this case and examined as many as seven witnesses and recorded their statements under Section 161 (3) Cr.P.C. Having come to the conclusion that there is *prima facie* material against the petitioner to

proceed with the trial, filed charge sheet against this petitioner for the offences punishable under Sections 353, 506 and 509 IPC.

The present petition is filed under Section 482 Cr.P.C., by the sole accused on the ground that the allegations made in the complaint do not constitute any offence and in fact he approached the authorities in pursuance of the direction issued by this Court in W.P.No.1998 of 2015 and made a representation to the authorities i.e., the Superintendent/second respondent, but the respondent refused to receive the same without any ground and then the petitioner demanded them to receive the same, otherwise, he will report the same to the higher authorities. He never obstructed the government employees or public servants from deterring or discharging their duties. Therefore, the allegations made in the charge sheet do not constitute any offence as stated above and prayed to quash the proceedings.

During hearing, learned counsel for the petitioner while reiterating the grounds urged in the petition, drawn the attention of this Court to the statements of the witnesses recorded by the police during investigation under Section 161(3) Cr.P.C. and pointed out some inconsistency in the statements of the witnesses regarding the incident. Taking advantage of the inconsistency in the statements recorded by the Police under Section 161(3) Cr.P.C. requested this Court to quash the proceedings.

Learned Public Prosecutor appearing for the State of Andhra Pradesh contends that the allegations made in the complaint are

sufficient to constitute offences punishable under Sections 353, 506 and 509 IPC.

As seen from the allegations made in the complaint and charge sheet, the petitioner terrorized the second respondent and other employees for refusing to receive the representation he tendered and created an apprehension in their minds that they cannot discharge their duties effectively and such act amounts to deterring the public servant from discharging their duties by his conduct, which would fall within Section 353 IPC. Therefore, the statements recorded by the Police and the allegations made in the complaint directly pointing out the complicity of the petitioner under Section 353 IPC though not for the offences punishable under Sections 506 and 509 IPC, but sufficient to proceed against the petitioner for the offence punishable under Section 353 IPC.

Undoubtedly, there is discrepancy in the statements recorded by the police, but based on such consistency, this Court cannot quash the proceedings since the jurisdiction of this Court is limited and this Court at this stage cannot appreciate the evidence but evaluate the material on record to come to any conclusion. Therefore, the discrepancies pointed out in the statements is nothing but appreciation of evidence though it is not a substantive piece of evidence.

In *Umesh Kumar v. State of Andhra Pradesh*¹, the Supreme Court held that law does not prohibit entertaining the petition under Section 482 Cr.P.C. for quashing the charge sheet even before the

¹ AIR 2014 SC 1106

charges are framed or before the application of discharge is filed or even during its pendency of such application before the Court concerned. The High Court cannot reject the application merely on the ground that the accused can argue legal and factual issues at the time of the framing of the charge. Thus, the judgment of the Apex Court is clear that even if a petition for discharge is filed and pending, the High Court cannot reject the petition filed under Section 482 Cr.P.C. While discussing the facts of the above judgment, the Supreme Court held in paragraph 12 as follows:

“Once criminal law is put in motion and after investigation the charge sheet is filed, it requires scrutiny in the court of law. However, before the charges could be framed, Umesh Kumar, appellant, approached the High Court under Section 482 Cr.P.C. for quashing of the charge sheet. The scope of Section 482 Cr.P.C. is well defined and inherent powers could be exercised by the High Court to give effect to an order under the Cr.P.C.; to prevent abuse of the process of court; and to otherwise secure the ends of justice. This extraordinary power is to be exercised *ex debito justitiae*. However, in exercise of such powers, it is not permissible for the High Court to appreciate the evidence as it can only evaluate material documents on record to the extent of its *prima facie* satisfaction about the existence of sufficient ground for proceedings against the accused and the court cannot look into materials, the acceptability of which is essentially a matter for trial. Any document filed alongwith the petition labelled as evidence without being tested and proved, cannot be examined. Law does not prohibit entertaining the petition under Section 482 Cr.P.C. for quashing the charge sheet even before the charges are framed or before the application of discharge is filed or even during its pendency of such application before the court concerned. The High Court cannot reject the application merely on the ground that the accused can argue legal and factual issues at the time of the framing of the charge. However, the inherent power of the court should not be exercised to stifle the legitimate prosecution but can be exercised to save the accused to undergo the agony of a criminal trial.”

In view of the law declared by the Apex Court, the jurisdiction of this Court is limited and this Court cannot appreciate the evidence, but at best evaluate the material on record.

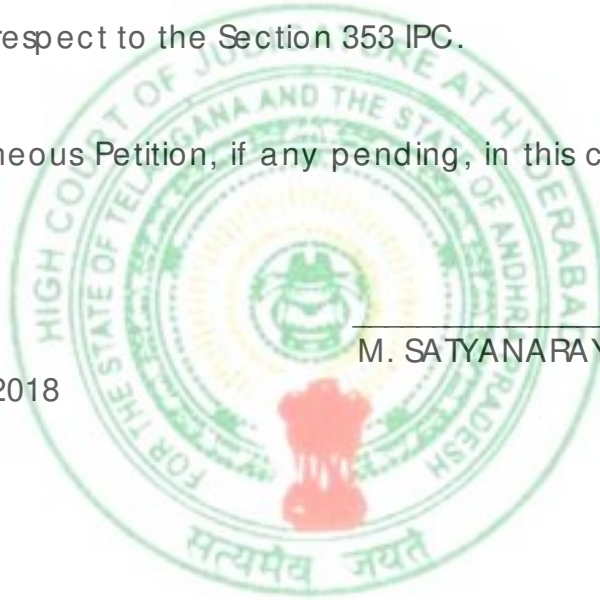
In view of the reasons recorded above, I find that it is a fit case to quash the proceedings against the petitioner for the offences punishable under Sections 506 and 509 IPC while permitting the Court to proceed against the petitioner for the offence punishable under Section 353 IPC.

In the result, this Criminal Petition is partly allowed quashing the proceedings in C.C.No.492 of 2015 on the file of Additional Junior Civil Judge, Mangalagiri, Guntur District, for the offences punishable under Section 506 and 509 IPC while dismissing the petition with respect to the Section 353 IPC.

Miscellaneous Petition, if any pending, in this case, shall stand dismissed.

Date: 09-08-2018
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M. SATYANARAYANA MURTHY, J



HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

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Dt. 09-08-2018

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