

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.8503 OF 2018

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, is filed by the Petitioner/A-2 to quash the proceedings in Crime No.220 of 2018 of J.R.Gudem Police Station, West Godavari District, registered for the offences punishable under Section 420 of I.P.C. and Section 7(1) of the Essential Commodities Act, 1955.

2. Heard, the learned counsel for the petitioner, learned Public Prosecutor appearing for the respondent-State, and perused the material on record.

3. The allegations in the complaint lodged by 1st respondent - complainant *i.e.*, D.V.Satyanarayana, Deputy Tahsildar, Jangareddigudem Village and Mandal, are that, on receipt of credible information, he along with Vigilance and Enforcement Department officials conducted raid on 18.07.2018 at 03:30 P.M. near Water Tank, Ramachandrapuram, Eluru Road, and identified one Mahindra Auto bearing No.AP 37 TF 2554 having 16 bags of PDS Rice each containing 50 KGs of rice and caught hold of Vema Subrahmanyam (A-1), who is the driver-cum-owner of the Auto and, on interrogation, he revealed that he is buying PDS rice at the rate of Rs.15/- per K.G. and selling the same to one Phani of Jangareddigudem at the rate of Rs.16/- per K.G. Then, the complainant along with Vigilance and Enforcement Officials, handed over the rice bags to F.P. Shop No.17, P.Joharu, who is its dealer, and handed over the Auto to Station House Officer, Jangareddigudem, for safe custody and as such filed 6-A proceedings before the Joint Collector, West Godavari District, Eluru. Thus, the petitioner allegedly committed the aforesaid offences. On

the strength of which, a case in Crime No.220 of 2018 was registered and issued F.I.R. for the aforesaid offences. Aggrieved by registration of Crime, the petitioner filed the instant Petition to quash the proceedings in Crime No.220 of 2018 on the ground that he is Konduru Kasi Palani Kumar but not Phani, whose name is arrayed as A-2 in the F.I.R. and prayed to quash the proceedings, as the Crime is falsely foisted against this petitioner.

4. Learned counsel for the petitioner reiterated the same contentions during course of hearing and requested to quash the proceedings.

5. As seen from the allegations made in the F.I.R., A-1 is one Vema Subrahmanyam, aged 45 years, who is driver-cum-owner of the Auto and against A-2, whose name is mentioned as Phani, male, S/o.not known to the complainant, no other details were mentioned in the F.I.R. In the absence of personal details of A-2, the petitioner, who is known as Konduru Kasi Palani Kumar, filed this Petition to quash the proceedings as he is not the person mentioned as Phani in Crime No.220 of 2018 on the file of J.R.Gudem Police Station but, the investigation is still pending and no witnesses were examined as on today.

6. As per the material available on record, at this stage, the Court cannot quash the proceedings since the investigation is at foetus stage and this Court cannot exercise such power under Section 482 of Cr.P.C. since such power can be exercised sparingly in exceptional circumstances to give effect to the orders passed under the Code or to prevent abuse of process of the Court or to secure ends of justice.

7. The principle laid down ***Medchl Chemicals and Pharma Private Limited Vs. Biological E.Limited***¹ is identical to the principles laid down in ***Mrs. Dhanalakshmi Vs. R.Prasanna Kumar***² and there is no quarrel about law declared by the Apex Court and this Court cannot venture to examine the correctness or truth in the allegations made in the complaint. The same principle is reiterated in ***State of Orissa Vs. Saroj Kumar Sahoo***³, wherein the Apex Court held that 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 only *prima facie* to 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 evidence to conclude whether the materials produced are sufficient or not for convicting the accused.

8. Thus, in view of the principles laid down in the above decisions, I find that it is not a fit case to exercise power under Section 482 Cr.P.C. to

¹ AIR 2000 SC 1869

² AIR 1990 SC 494

³ (2005) 13 SCC 540

quash the proceedings in Crime No.220 of 2018, unless the Investigating Officer identifies whether Phani arrayed as A-2 in the report is that of petitioner or not. But as on today, the petitioner was not identified as Phani, who is arrayed as A-2 in the Crime. Therefore, the petitioner is not entitled to seek such relief, at this stage, and consequently, the Criminal Petition is liable to be dismissed.

9. Accordingly, the Criminal Petition is dismissed. However, the petitioner is at liberty to renew his request, at appropriate stage, in the event of investigating agency identifying the Phani, arrayed as A-2 in Crime No.220 of 2018, is that of the petitioner herein.

As a sequel, miscellaneous petitions, if any pending, in this Petition shall stand dismissed.

Date: 13.08.2018.
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M.SATYANARAYANA MURTHY, J



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