

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Crl.P. No.8826 OF 2018

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. by A1 to A3 to quash the proceedings in C.C.No.428 of 2017, pending on the file of Judicial Magistrate of First Class, Nidadavole, West Godavari District, registered for the offences punishable under Sections 353, 341, 506 read with 34 IPC.

The 2nd respondent/*de facto* complainant lodged report with the police complaining that while he was discharging duties and controlling traffic near Tadepalligudem Railway Gate Road on 30.11.2017 at about 03.30 PM, the 1st petitioner was present in driving seat of Hyundai i20 car bearing No. AP 37 DE 3996 and driving the same in wrong route in opposite direction and created traffic jam and then the 2nd respondent admonished the 1st petitioner to remove the car and keep the car aside, but the 1st petitioner did not move his car aside and picked up quarrel with him. Later the 2nd respondent again admonished the 1st petitioner to move the car from there and went forward to clear the traffic. As the matter stood thus, on the same day at about 09.30 PM, the 2nd respondent along with Court constable PC 827 were present in the office of Inspector of Police, giving information for MCR, the petitioners along with another person came there and picked up quarrel as to the incident took place in the after noon, abused him in filthy language, wrongfully restrained him from moving there, assaulted him so as to deter from discharging legitimate duties as public servant and threatened to see his end and raised cries loudly against him. The said fact is witnessed by the other police staff, who are present in the police station. On the basis of the complaint, the police registered a case in Crime No.198 of 2017, issued FIR and Inspector of Police, Nidadavole Circle took up investigation, examined as many as 14 witnesses, and

recorded their statements under Section 161(3) Cr.P.C. On the basis of the evidence collected during investigation, including the statements recorded under Section 161(3) Cr.P.C., filed charge sheet before the Magistrate for the offences referred supra.

The Magistrate took cognizance of offence against the petitioners and at this stage, the petitioners approached this Court that the allegations made in the complaint do not constitute any offence muchless the above offences and that entering into the police station by the petitioners is absurd and inherently improbable to the natural circumstances and no ordinary person will venture to enter into the police station and pick up quarrel with the Inspector of Police and thereby alleged report and filing charge sheet based on the investigation is nothing but absurdity and requested to quash the proceedings.

During hearing, learned counsel for the petitioners raised several contentions with regard to the absurdity and inherently improbable acts besides raising cries would not constitute any offence and requested to quash the proceedings.

As seen from the complaint lodged by the 2nd respondent while he was controlling traffic at Tadepallygudem Railway Gate Road, he noticed that the 1st petitioner was found driving car in opposite direction and creating traffic problem to the passers on the road, he asked him to take the car aside, but he did not heed the said words, again he came and asked him to keep the car aside and proceeded further to clear the traffic jam. On account of this incident, the 1st petitioner along with others went to the Office of the Inspector while the 2nd respondent and his Court constable were discussing about MCR, and threatened with dire consequences and restrained him from moving in any direction, assaulted the 2nd respondent and thereby deterred him being public servant in discharging his duties.

The written complaint lodged with the police and the statements recorded under Section 161(3) Cr.P.C. are identical in all respects and it is nothing but replica of the report. The said fact is supported by the other witnesses including the Court constable and others. If the allegations in the charge sheet including the statements recorded by the police are accepted on its face value, there is *prima facie* material to proceed against the petitioners for the above offences, but no *prima facie* material is found against the petitioners for the offence under Section 341 IPC since they did not restrain the 2nd respondent from moving in any direction, in which he has right to move.

The allegations made in the complaint and statement of LW.1 directly disclose that the petitioners entered in to the police station and questioned the act of the 2nd respondent on account of the incident that occurred at Tadepalligudem Railway Gate Road and shouted against him allegedly. Undoubtedly, the 2nd respondent is a public servant as defined under Section 21 IPC and while he was discharging his duties, entering into office and threatening them with dire consequences and assaulting them would constitute offences punishable under Sections 353 and 506 read with 34 IPC.

In the result, the criminal petition is allowed in part quashing the proceedings against the petitioners for the offence punishable under Section 341 IPC while declining to quash the proceedings for the offences punishable under Sections 353 and 506 read with 34 IPC.

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

M.SATYANARAYANA MURTHY,J

27.09.2018
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