

THE HONOURABLE SRI N. BALAYOGI

CRIMINAL PETITION No.1977 of 2011

ORDER:

The present Criminal Petition is filed under section 482 of Cr.P.C., to quash the proceedings in Crime No.74/2010 of Kalakada Police Station, Chittoor District.

2. The contention of the petitioner is that there is no iota of truth in the allegations mentioned against the petitioner and it is only invented for the purpose of creating defence on the accused in Crime No.48/2010 of Kalakada police station, wherein the accused is facing proceedings for the offences under section 302 and 324 R/w 34 IPC. The report was lodged on 15-11-2010 and it is not known, what made them to lodge report against the petitioner after a period of three months. Moreover, the informant is not an aggrieved party in the incident and it is not known why he kept quiet initially and why he lodged report after three months, though he is totally unconcerned with the incident. In fact, the deceased gave dying declaration to the Sub-Inspector of Police, Kalakada police station stating that he received injuries in the hands of three persons ie., Narsimhulu, Venkata Narasappa and Yellappa who are shown in Crime No.48 of 2010 of Kalakada police station. That, after giving statement of dying declaration, the injured (Yerrappa) died in the hospital while undergoing treatment. Thereafter, the accused in Crime No.48/2010 realized that he is facing proceedings for the offence under section 302 and made deliberate attempt to create defence in the said case and got filed the present case against the petitioner.

3. It is the further contention of the petitioner that he is a student, studying B.Com.(Computers) and he was unnecessarily dragged into the case in the name of accident, which never took place. There is no mention about the accident in dying declaration. Thereafter, the accused in Crime No.48/2010, hatched up a plan and got filed the present case with a view to escape from the punishment for his misdeeds and also with a view to create defence in the case which is nothing but abuse of process of the Court.

4. Per contra, learned Public Prosecutor contended that the delay is because Yerrappa-deceased concerned in Crime No.74/2010 was given a false version to the police as they were beaten by opposite party of their village instead of traffic accident. This is the reason for delay in the FIR and what the complainant stated was reported to the police. The delay concerned should be decided during the trial.

5. The points that arise for consideration are:

- (1). *Whether there is abuse of process of the court and*
- (2). *Whether the complainant has invented any defence in Crime No.48/2010?*

6. A perusal of the record go to suggest that the Crime in No.48/2010 is basing on the complaint of Chirasani Gurrappa dated:20.08.2010 against Reddeppa, with regard to the incident occurred on 19.8.2010 against Reddeppa. The allegations in the FIR are that, at about 6.00pm at Gollapalli village, Chirasani Reddeppa and five others assaulted the complainant-Chirasani Gurrappa with stone on his hand and caused bleeding injury at the time complainant sister-in-law Komalamma intervened and rescue the complainant at the time all accused therein beat Komalamma and caused dumb injuries on her

body. The names of the accused in Crime No.48/2010 are (1). Reddeppa, (2) Reddemma – wife of Reddeppa, (3) Narasimhulu, (4).Venkatanarasappa, (5). Yellappa-sons of Reddeppa and (6) Leelavathi, who assaulted the complainant with stones and abused in filthy language and in that incident, he sustained injuries on head and all over the body. His elder sister-in-law also sustained injuries on the head.

7. Further, the statement of M.S. Venkataramana is that, on 19.8.2010 at about 8.00 pm, while he along with his wife Syamamma and mother Narayanamma sat in front of their house and talking together. They saw one TVS super XL was going very speedily from Kadiraya Cheruvu to Kalada, which is in front of their house. On seeing that speed, they thought that the vehicle would dash somewhere. At the very moment, they had a sound of TVS super XL fell down. Immediately, they took torchlight and went to the place where super XL along with three persons crossed the fencing and lay at the roadside of the land of groundnut of Girishankar Reddy. With the assistance of the boy, Venkataramana lay the old lady and old man on the road. His wife brought water which was given to them. When he saw them with torchlight, injuries on head, legs and so many parts on body appeared. Old lady received injuries on the right cheek. When he enquired them why they were going speedily in the night, the boy said that his name was Tirupal, the name of the elder lady is Venkatamma, elder man's name is Yerrappa, belong to Yunugondapallem, Gollapalli. Moreover, quarrel took place between Yerrappa and Reddeppa who was the opposite party, Reddeppa and other went to give complaint against these persons, as they wanted to give complaint before to their complaint. That while they were going speedily, TVS super XL tire got punctured as such they fell down and

received injuries, said by Tirupal. Thereafter, Venkataramana called the agent of 108, Easwaraiah. Easwaraiah came immediately to that place and called 108 ambulance. Two old persons and Tirupal requested us to give evidence as auto dashed them. At about 9.O'clock in the night, 108 came. First aid was given to Yerrappa and Venkatamma in 108. Thereafter, when we tried to take them to hospital, Voyalpadu, they said that we don't go to Voyalpadu, we will go after giving report in the police station, Kalakada. To this, Eswaraiah and staff of 108 suggested to lodge complaint with Voyalpadu and took them in 108. Thereafter, we came to know by police that Yerrappa who received injuries died while he was undergoing treatment in RUMA, Tirupathi. Further, Yerrappa who received injuries in the road accident, gave false evidence before police that his opponents bet him at Gollapalle where he got injuries and Yerrappa, Venkatamma and Tirupal were going to the police to report the matter what was happened before them. On that day, with eagerness of giving report to the police early, Tirupal drove AP03 AC 9469 TVS SUPER XL dashed with rash and negligent manner caused to the accident.

8. There is a specific plea in the complaint under Crime No.74/2010 that Tirupal of Gollapalli village was driving the Super LX bearing No.AP03-AC-9469 on 19.8.2010 at about 8.00pm and caused accident and accordingly the complainant, his wife and mother are the witnesses to the accident. In the complaint, there is proper explanation for the delay; that subsequently they came to know that Yerrappa who received injuries in the accident witnessed by the complainant was died while undergoing treatment and further, they came to know that he gave a false report in the police station which

forced them to give complaint instead of traffic accident. Whether the Crime 74/2010 is a counter blast to Crime No.48/2010, the accident occurred on 19.8.2010 and the complaint in Crime No.74/2010 was filed on 15-11-2010 ie., after three months of the accident and whether there is a delay in filing FIR in Crime No.74/2010, all these facts need to be adjudicated during the course of trial.

9. In view of the above facts discussed and contentions raised, I am of the considered view that there is prima facie material against the petitioner to prosecute. There is nothing to suggest that the complainant abused the process of the Court and any prejudice caused to the petitioner/accused by the complaint in Crime No.74/2010. I do not find any ground to quash the proceedings. Accordingly, the Criminal Petition is dismissed while vacating the interim stay granted on 15-3-2011.

10. Miscellaneous Petitions, if any, pending, shall stand closed.

JUSTICE N. BALAYOGI

Dated:02-2-2018

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THE HONOURABLE SRI N. BALAYOGI



DATED:02-02-2018

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