

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.8875 OF 2018

ORDER:

This criminal petition is filed under Section 482 Cr.P.C to quash the proceedings in C.C.No.389 of 2018, pending on the file of Judicial Magistrate of First Class at Vemulawada, registered for the offences punishable under Section 384 IPC.

It is the case that, one Sridhar Goud has entrusted the work of polishing the tiles of his house to one Pittala Shekar, who in turn assigned the work to the second respondent/defcto complainant, who is a coolie by occupation. However, tiles polishing work was not up to the mark and Pittala Shekar has held the second respondent responsible for it. Further, Pittala Shekar has lodged a complaint with the police on 15.02.2018 against the second respondent and his brother, alleging that the second respondent along with other ten persons bet him. It is the allegation that, on 18.02.2018, the petitioner herein/accused called the second respondent/defacto complainant to Korutla Bus Stop at about 4:30 PM in the name of compromising the matter and forced the second respondent to pay Rs.2,500/- and threatened him with dire consequences. It is also alleged that the petitioner executed a note and obtained the signatures of the second respondent forcibly. Hence, the second respondent lodged report with the police.

Based on the complaint, the police registered Crime No.64 of 2018 for the offences punishable under Section 384 IPC and issued F.I.R. On the strength of the F.I.R, the Inspector of Police, took up investigation and examined as many as five witnesses, recorded their statements under Section 161(3) Cr.P.C and after collection of entire evidence, including the statements of the witnesses recorded under Section 161(3) Cr.P.C, concluded that there is prima facie material to proceed against this petitioner for the offence punishable under Section 384 IPC and filed charge-sheet.

The present criminal petition is filed to quash the proceedings in C.C.No.389 of 2018, pending on the file of Judicial Magistrate of First Class at Vemulawada, on the ground that the allegations made in the complaint do not constitute an offence and it is specifically alleged that the defacto complainant lodged a complaint on 19.02.2018 stating that he is a resident of Bhagavantraonagar, Vemulawada and living by doing tiles fitting work and on 14.02.2018, the second respondent arranged flooring tiles in the house of one Sridhar Goud, later Pittala Shekar took contract with house owner and polished the said tiles. While doing so, Pittala Shekar and other workers informed the owner that, due to forcible use of iron, the tiles colour got faded and upon knowing which, on the same day, Pittala Shekar lodged a complaint before the police stating that the second respondent and his younger brother beat him and on 18.02.2018 at about 4:30 hrs, the petitioner called him to Korutla Bus Station and informed him that

he would compromise the case and demanded to give net cash of Rs.2,500/-, otherwise, he would see the end of second respondent and also got executed a note and obtained his signatures forcibly. The petitioner submitted that, the police officials having noticed the complaint against them on social media, summoned the defacto complainant to their police station, and questioned him as to how he signed the complaint lodged by the petitioner and threatened him with dire consequences, on which the second respondent informed the petitioner saying that “you will leave Hyderabad and these people will not permit to leave here for signing your petition and requested me not to give any report to the Superintendent of Police” and having agreed for the same, the petitioner did not choose to lodge the complaint before the superior officials. It is also further contended that the allegations made in the complaint, more particularly, obtaining signatures forcibly are false and prayed to quash the proceedings.

During hearing, learned counsel for the petitioner reiterated the contentions urged in the grounds.

As seen from the material on record, including the allegations made in the charge-sheet, it is clear that the second respondent is a resident of Bhagavantraonagar, Vemulawada, who is eking out his livelihood by doing tiles fitting work. Whereas the petitioner/accused is a permanent resident of Anjaiahnagar, Vemulawada and habituated to blackmailing the people and there are instances of similar incidents and that none have come forward to report against him. The second respondent undertook the work

of polishing tiles in the house of one Sridhar Goud on 14.02.2018. The second respondent arranged flooring tiles in the house of one Sridhar Goud, later Pittala Shekar took contract with house owner and polished the said tiles. While doing so, Pittala Shekar and other workers informed the owner that, due to forcible use of iron, the tiles colour got faded and upon knowing which, on the same day, Pittala Shekar lodged a complaint before the police stating that the second respondent and his younger brother beat him. Further, on 18.02.2018 at about 4:30 hrs, the petitioner called him to Korutla Bus Station and informed him that he would compromise the case and demanded to give net cash of Rs.2,500/-, otherwise, he would see the end of second respondent and also got executed a note and obtained his signatures forcibly.

The statements of witnesses recorded under Section 161(3) Cr.P.C supports the allegations made in the charge-sheet.

Section 383 IPC defines the word 'Extortion' and according to it, whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed which may be converted into a valuable security, commits "extortion".

Thus, the petitioner allegedly obtained signatures of the second respondent on some papers forcibly, while threatening to see his end, in case the second respondent fails to give Rs.2,500/- for compromising the dispute. This act would fall within the definition of 'extortion' as defined under Section 383 IPC and thus,

prima facie material on record which discloses commission of offence punishable under Section 384 IPC.

The power of this Court under Section 482 Cr.P.C is inherent and notwithstanding anything contained in the provisions of Cr.P.C be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under Cr.P.C, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

In **State of Haryana v. Bhajan Lal**¹ this Court considered in detail the provisions of Section 482 and the power of the High Court to quash criminal proceedings or FIR. The Apex Court summarized the legal position by laying down the following guidelines to be followed by High Courts in exercise of their inherent powers to quash a criminal complaint:

- (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- (3) Where the allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose

¹ 1992 Supp. (1) SCC 335

the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non- cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

If, guideline no.3 of **Bhajan Lal's** case is applied to the present facts of the case, the allegations made in the FIR or complaint and the evidence collected in support of the same discloses commission of any offence or make out a case against the accused *prima facie*, this Court cannot exercise inherent power under Section 482 Cr.P.C and quash the proceedings.

Hence, I find no ground to quash the proceedings against the petitioner in C.C.No.389 of 2018, pending on the file of Judicial Magistrate of First Class at Vemulawada and consequently, the criminal petition is liable to be dismissed.

In the result, criminal petition is dismissed at the admission stage.

Consequently, miscellaneous applications pending if any, shall also stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:23.08.2018

SP

