

THE HONOURABLE SRI JUSTICE N. BALAYOGI
CRIMINAL PETITION No.2936 of 2011

ORDER:

This Criminal Petition is filed by petitioner under section 482 of Cr.P.C, seeking to quash the proceedings in Crime No.48 of 2011 of Mellacheruvu police station.

2. The contention of the petitioner is that, no appointment orders were issued to the petitioner sofar. If she gets appointment on compassionate grounds basing on the alleged forged transfer certificate, then it will be treated as cheating or using the forged document as genuine one for getting appointment. It is further contended that the petitioner never submitted the alleged transfer certificate as her mother passed away.

3. Per contra, learned Assistant Public Prosecutor contended that the petitioner produced forged and created transfer certificate and used the same as genuine one for compassionate appointment to the post of Sweeper and there is sufficient material to prosecute the petitioner.

4. Now, the point that arises for determination is:

Whether there is any prima facie material to prosecute the petitioner?

5. A perusal of the record would go show that the Mandal Praja Parishad Development Officer who is full additional charge of Mellacheruvu, filed complaint Telugu typed dated:21.3.2011 to the Station House Officer, Mellacheruvu, alleging that Smt.

Manda Ramulamma, Sweeper, Gram Panchayat Office, Mellacheruvu Village and Mandal died on 17-11-2009, while in service. The petitioner, daughter of the said Manda Ramulamma, submitted transfer certificate for compassionate appointment which was proved as bogus during enquiry, the District Panchayat Officer ordered to register a criminal case against her and send report. Accordingly, the Mandal Praja Parishad Development Officer filed complaint before the police stating that prima facie material is made out against the petitioner after due enquiry that transfer certificate produced by her for appointment on compassionate grounds as Sweeper found to be bogus. Hence, requested to take action.

6. Further, when enquired into the matter, the learned Assistant Public Prosecutor submitted that the alleged transfer certificate was not produced before the police along with complaint. Had it been produced, the complaint should have contained enclosure which is not mentioned. It is also alleged that the petitioner did B.A through Distance Education-Open University. Throughout, it is not the case of the petitioner that she studied regular course in any school. More so, mother of the petitioner died while working as Sweeper. The petitioner made an application for appointment on compassionate grounds after the death of her mother. It is further contended in the petition that she never submitted alleged false transfer certificate. The specific case of the petitioner is that she never

studied in any School and she only did B.A through distance education-Open University, the question of her submitting transfer certificate does not arise. More so, it is also alleged that petitioner is a permanent resident of Huzur Nagar but not of Nidamanur. Whereas, the alleged transfer certificate stands in the name of Nagarjuna High School, Nidamanur, of which place she is not a resident and because of poverty, she may not have capacity to go to Nidamanur and obtain the certificate.

7. It is also alleged that the villagers who are covetous on the post of Sweeper, after the demise of mother of petitioner, when she applied to the said post, with the help of officials with a view to grab the same by hook or crook, foisted the present false case in order to threat the petitioner not to proceed further for compassionate appointment.

8. In fact, she only made an application for appointment on compassionate grounds as Sweeper after the death of her month. Her application was not considered and she was not given any appointment.

9. The Honourable Supreme Court of India in the case of GORIGE PENTIAH Vs. STATE OF ANDHRA PRADESH AND OTHERS in (2008) 12 Supreme Court Cases 531 observed at para No.22 which is as follows:

“22. This Court in *ROY V.D. v. STATE OF KERALA* observed thus: (SCC P.597, PARA 18)

“18. It is well settled law that the power under Section 482 CrPC has to be exercised by the High Court, inter alia, to prevent abuse of the process of any court or otherwise to secure the ends of justice. Where criminal proceedings are initiated based on illicit material collected on search and arrest which are per se illegal and vitiate not only a conviction and sentence based on such material but also the trial itself, the proceedings cannot be allowed to go on as it cannot but amount to abuse of the process of the court.”

10. In the instant case also there is no aggrieved party. The alleged transfer certificate is not before the police at the time of registration of FIR. The complainant is only the Mandal Praja Parishad Development Officer (Full Additional Charge) of Mellacheruvu, which according to him is based on enquiry with regard to transfer certificate which is not before the police, came to conclusion that alleged transfer certificate is bogus and therefore, criminal proceedings against the petitioner were initiated based on the complaint given by the said Mandal Praja Parishad Development Officer. The petitioner is a poor lady and she applied only for appointment on compassionate grounds after the death of her mother. Instead of considering her application for appointment on compassionate grounds, criminal proceedings were initiated which certainly amounts to abuse of process of the Court. Hence, the impugned proceedings cannot go on, it amounts to abuse of process of the Court in the interests of justice. Accordingly, I am of the considered view that the complaint is nothing but abuse of process of law. Only to harass the petitioner, the authorities without considering her application for appointment on compassionate grounds, who did

B.A from Open University, made enquiry and came to conclusion that the certificate is bogus and gave a complaint without enclosing report of the enquiry officer or the alleged transfer certificate which amounts to abuse of process of law. Hence, the impugned proceedings in Crime No.48 of 2011 of Mellacheruvu police station are liable to be quashed and are accordingly quashed.

11. In the result, the Criminal Petition is allowed.

Miscellaneous Petitions, if any, pending, in this Criminal Petition, shall stand closed.

JUSTICE N. BALAYOGI

Dated:27-02-2018

gnr



THE HONOURABLE SRI JUSTICE N. BALAYOGI



CRIMINAL PETITION No.2936 of 2011

Dated:27-02-2018

gnr