

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Crl.P. No.9601 OF 2018

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. to quash the proceedings in Crime No.111 of 2017 of Moninpet Police Station, Vikarabad District, registered for the offence punishable under Section 379 IPC.

The petitioner is A6, who allegedly purchased the stolen articles from the other accused 1 to 3.

The main contention of the petitioner before this court is that the allegations made in the complaint do not constitute the offence punishable under Section 379 IPC.

The proceedings are at the stage of crime and at this stage, this Court cannot express any opinion as to the section of law, which attracts in view of the law declared by the Apex Court in **Mrs Dhanalakshmi vs. R. Prasanna Kumar & Others**¹ and even in the judgment of the Apex Court in **State of Orissa v. Saroj Kumar Sahoo**² it was 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

¹ AIR 1990 SC 494

² (2005) 13 SCC 540

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 proceedings at any stage. While exercising jurisdiction under Section 482 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 to only *prima facie* be satisfied about existence of sufficient ground for proceeding against the accused. For that limited purpose, the Court can evaluate material and documents on record but it cannot appreciate evidence.

Similarly in “**Kurukshetra University v. State Of Haryana**”³, the Apex Court took a serious view about quashing the proceedings by the High Court while exercising power under Section 482 Cr.P.C and observed as follows:

“It surprises, us in the extreme that the High Court thought that in the exercise of its inherent powers under Section 482 of the Cr.P.C, it could quash a First Information Report. The police had not even commenced investigation into the complaint filed by the Warden of the University and no proceeding at all was pending in any court in pursuance of the F.I.R. It ought to be realized that inherent powers do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice. That statutory power has to be exercised sparingly, with circumspection and in the rarest of rare cases.”

In view of the law declared by the Apex Court in various judgments referred supra, this Court need not examine the facts minutely and cannot evaluate the evidence on record and if for any reason, the petitioner is the person, who received the stolen articles, the investigating agency will file appropriate charge sheet for the

³ AIR 1977 SC 2229

offence punishable under Section 411 IPC based on the evidence collected during investigation against the petitioner, but on that ground at the crime stage, this Court cannot exercise its power. Therefore, I find no ground to quash the proceedings against the petitioner.

In the result, the criminal petition is dismissed.

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

10.09.2018
kvrn



M.SATYANARAYANA MURTHY,J