

THE HON'BLE SRI JUSTICE N.BALAYOGI

CRIMINAL PETITION No.3477 of 2011

ORDER:

This petition under Section 482 of Cr.P.C. is filed by the sole accused seeking to quash the proceedings in C.C.No.63 of 2009 pending on the file of Judicial First Class Magistrate, Cheepurupalli, Vizianagaram District.

2. The contention of the petitioner-accused is that none of the ingredients of Section 188 IPC and Section 134 (A) of the Representation of the People Act, 1951 are attracted and that there is no evidence that the petitioner has committed the alleged offences. The complaint and the subsequent charge sheet are filed with a *mala fide* intention to wreck vengeance against the petitioner and that no specific overt acts are attributed to the petitioner in the complaint to connect him with the alleged offences.

3. On the other hand, the learned Public Prosecutor contended that specific overt acts are attributed to the petitioner in the complaint that while the petitioner was discharging duty as Presiding Officer in booth No.52 of Yadika village, one Tamarba Apparao, working as Special Grade Deputy Collector of Thotapalli Barrage Project Unit-II brought one blind lady, who is the mother of the complainant namely, Majji Chinna to the polling station to cast her vote of Cheepurupalli Assembly segment and Vizianagaram Parliamentary constituency. She approached the petitioner-accused and informed him that her vote to be polled in favour of T.D.P. party, but the petitioner-accused polled her vote in favour of Congress-I Party and on seeing the situation, Tamarba Apparao

raised the dispute at the polling station for which, the polling was stopped for some time.

4. Heard the learned counsel for the petitioner and learned Public Prosecutor for the respondents. Perused the material available on record.

5. Now the point that arises for consideration in this petition is:-
“whether there is any *prima facie* material to prosecute the petitioner for the alleged offences?”

A perusal of the record goes to show that on 16.04.2009 on the complaint lodged by one Parika Haridas Naik, a case in Crime No.50 of 2009 was registered against the petitioner for the offences punishable under Section 188 I.P.C. and Section 134(A) of Representation of the People Act, 1951. After thorough investigation, the investigating officer filed a charge sheet against the petitioner alleging that on 16.04.2009 at about 10.00 hours, Tamarba Apparao, working as Special Grade Deputy Collector of Thotapalli Barrage Project Unit-II brought one blind lady, who is the mother of the complainant namely, Majji Chinna to booth No.52 to caste her vote. The said blind lady approached the petitioner, who is on duty as Presiding Officer and asked him to cast her vote in favour of Telugu Desam Party, but however, the petitioner polled her vote in favour of Congress-I Party. On seeing the same, Tamarba Apparao raised a dispute at the polling station for which, the polling was stopped. On information, Parika Haridas Naik, Agricultural Officer, Chipurupalli rushed to Budarayavalasa Police Station and lodged a report, basing on which, a case in Crime No.50

of 2009 was registered against the petitioner for the alleged offences.

6. In view of the above facts and material disclosed, I am of the considered view that specific overt act is attributed to the petitioner-accused that while discharging the duties as Presiding Officer of Booth No.52, he polled the vote of a blind lady to Congress-I Party instead of Telugu Desam Party, against her instructions. In view of the above, I find that there is *prima facie* material to prosecute the petitioner for the alleged offences. No material is placed to establish any abuse of process of Court and hence, I find no ground to quash the proceedings.

7. In the result, the Criminal Petition is dismissed.

The interim stay granted by this Court on 20.04.2011 in CrI.P.M.P.No.3702 of 2011 shall stand vacated.

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

08th February 2018
Tsr

JUSTICE N.BALAYOGI