

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.11482 OF 2018

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C by the petitioners, who are A2 and A3 of C.C.No.435 of 2018, which is outcome of crime No.88 of 2016, dated 02.02.2016 of Jeedimetla Police Station, Cyberabad District, registered for the offences punishable under Sections 143, 353 r/w149 IPC and from the police final report taken cognizance against 13 accused by showing A1 to A3 in abscondance. The other accused either obtained pre-arrest bail order pending investigation or arrested and remanded to judicial custody and enlarged on bail. Thereby, the learned Magistrate having taken cognizance, on 27.07.2017 issued NBWs against A1 to A3 and summons to the others, some of whom it seems already appeared before the trial Court. It is the said cognizance and the pending NBWs ordered from the post cognizance stage, impugned in the petition.

2. The 2nd respondent herein is the then Sub-Inspector of Police at Jeedimetla Police Station by name, K.Srinivas, the complainant. It is, on his complaint, the crime was registered which reads from the report that on 02.02.2016 in connection with GHMC elections within Bhagathsinghnagar, Zilla Parshad High School area jurisdiction, performing election duty and the constables, Brahmachari, Ravi, Ramesh, were already on

bandobust duty. On that day evening at 4.30 p.m. near to the polling station at Vignan Vidhyanikethan, some galata informed going on between supporters of TDP and Congress parties respectively and proceeded there and came to know that one Y.Janardhan Reddy, correspondent of the school supra and with his known persons by name Mallesh, Ashok and Bala Krishna, when he was speaking at his house, these persons referred as Bandi Shyam Goud and his followers and one Radika of Congress and TDP respectively was suspected of Y.Janardhan Reddy, in relation to the 128 Division Corporator election, distributing money for his wife, the contestant. He along with his staff supra when made an attempt to send those persons to leave that place, Quthbullapur Ex-MLA, Srisailam Goud(A2)/ 1st petitioner along with some other persons and Quthbullapur MLA, K.P.Vivekanand gathered there. Section 144 Cr.P.C. was in force in that area. They informed him that said Y.Janardhan Reddy at his house was distributing money. It was the issue for their raising objection to the galata. As the persons are about 200 to 300, he informed the Inspector (superior officer), who also came there at about 4.45 p.m. When the Police were controlling the public, they, without hearing, demanded to search the house of Y.Janardhan Reddy, who is distributing money to the voters, if not they are going to conduct a search. Then the Inspector, Chandrasekhar when trying to control those public,

MLA, K.P.Vivekanand, Ex-MLA, Srisailam Goud(A2) and Sanga Lakshma Reddy(A3), Bandi Shyam Goud, Sadanand, Shankar, K.Nagesh, Ramesh, Bandi Sai Goud, Tirupathi Naidu, Raja Reddy, Venkatatesh, Mixture Ramulu etc. behaved rashly towards the subordinates of the police and pushed them aside. Thereby, they caused obstruction to the police in performance of duty. Hence, to take action.

3. The charge sheet shows, 10 witnesses including the investigating officer, Sub Inspector, Jeedimetla (LW10) and the Inspector, Jeedimetla who issued FIR, by name A.Chandra Shekar(LW9), two panch witnesses(LWs.7 and 8) and others referred as eye witnesses i.e. complainant, three police constables supra and one Shaik Faizuddin of tiffin centre and one Muchinthala Ravi, mason.

4. The sum and substance of the accusation in the charge sheet from the investigation with reference to the statements of witnesses reads as follows:

“Investigation done so far it is well established that, the complainant LW.1 Sri K.Srinivas is the SI of Police at Jeedimetla PS and LWs.2 to 4 are the police personnel. The accused A1, KP Vivekanand is the MLA OF Quthbullapur Constituency and belongs to TDP Party. The accused A.2, Srisailam goud is the ex-MLA of Quthbullapur constituency and belongs to Congress party. The accused A.3, Laxma Reddy is the follower of A.2. The accused A.4, Bandi Shyam goud is the resident of Chinthhal and belongs to Congress party. The accused A.5, Raja Sadanand is the resident of Patwari Enclave, Chinthhal and belongs to TDP Party. A.6 A.Nagesh and A.9 Chippa Ramesh are the residents of Bhagathsinghnagar,

Chinthal and followers of A.5, A.6, Bandi Sai goud is the brother of A.4 and A.8, Shankar is the brother of A.5. The accused persons A.10, A.Paji Reddy, A.11, Thirupathi Naidu, A.12, K.Pamulu and A.13, Jella Venkatesh are the residents of Bhagathsinghnagar, Chinthal and belongs to TDP and Congress party Smt.Padhika wife of the accused A.5, Sadanand is contesting in the GHMC elections for 128 Division Corporator on behalf of TDP Party. Similarly Smt.Bandi Suguna wife of A.4, Bandi Shyam goud is also contesting in the GHMC elections for 128 Division on behalf of Congress party. One Janardhan Reddy, who is the resident of Bhagathsinghnagar, Chinthal is the correspondent of Vignan Vidhyala School and supporter of TRS Party.

On 2-2-2016 in the evening the said Janardhan Reddy along with his party workers Balakrishna, Ashok and Mallesh were at the house of Janardhan Reddy and had talk and later the said Janardhan Reddy went inside the house to have lunch. At about 4.30 p.m. the accused persons A.4 to A.13 suspecting that the said Janardhan Reddy is distributing money to the voters at his house entered into the house and attacked him and beat him and abused him and also assaulted his family members. In the meanwhile the complainant LW.1 Sri K.Shankar, SI of Police along with LWs.2 to 4 who were performing duty in Bhagathsinghnagar, Chinthal on receiving information rushed there and while the LWs.1 to 4 was trying to disperse them, in the meanwhile, the accused persons A.1 to A3 also reached along with others and on seeing the situation, when the complainant LW.1 informed to LW.9 about the incident, LW.9 along with his staff rushed there and while the police party is trying to disperse the unruly mob as there is 144 Cr.P.C. section was in force, they did not heed the request of the police and demanded the police to search the house of Janardhan Reddy as he is distributing the money to voters if not they themselves enter and search. Though the police party tried to disperse them as they are creating nuisance and creating law and order problem, they pushed the police party and obstructed them from discharging their legitimate duties. However, the police party dispersed the accused persons.”

5. Undisputedly, from the very report, there are about 200 to 300 persons. It is not even specifically stated in the FIR that who pushed whom and not even a case of the de facto complainant was pushed, but in saying some of the staff were pushed. It is the whole issue in registration of the offence under Section 353 IPC. Mere pushing or coming in contact among several persons 200 to 300 mob in between even the alleged accused 1 to 13 there, no way attracts the offence under Section 353 IPC, in the absence of intention to use force at least, that is lacking from the very report of the FIR in registration of the crime. Thus, no offence under Section 353 IPC that attracts and at best it comes under Section 95 IPC, which reads of act causing slight harm, by itself is not an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

6. Even from reading of the statements with reference to the entire investigation what all the accused persons, who are very few, among the said mob of 200 to 300 persons asked the police is in complaining Y. Janardhan Reddy was distributing money to the voters and conduct a raid to found money in his house and the police are bound when performing election duty at least to verify. It is not even the case of

complainant or investigating officer from investigation in the charge sheet from the Inspector (LW9) or the constables that they verified and said allegation is untrue. When it is the duty of the police to detect the crime, for which the complaint made of said Janardhan Reddy was distributing money illegally to the voters and besides not preventing and not finding even truth or otherwise of it, in registering a case against petitioners for the alleged a little push by mob against the staff of the three constables of the complainant on duty, the registration of the crime for the offences under Sections 143, 149 and 353 including from the police final report and taking of cognizance *per se* unsustainable and is liable to be quashed that too, said Janardhan Reddy not even examined as witness, when material witnesses, the persons referred along with Janardhan Reddy are available in the very report referred supra not even examined.

7. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioners/ A2 and A3 relating to C.C.No.435 of 2018, which is outcome of Crime No.88 of 2016, dated 02.02.2016 of Jeedimetla Police Station, Cyberabad District, are quashed.

8. Miscellaneous petitions pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 27.11.2018
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