

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.12468 OF 2017
AND
CRIMINAL PETITION No.12469 of 2017

COMMON ORDER:

These criminal petitions are filed under Section 482 Cr.P.C. to quash the proceedings in Crime Nos.71 and 278 of 2017 of Kacheguda Police Station, Hyderabad, respectively registered for the offences punishable under Sections 354, 354-D and 506 IPC, against the petitioner on the basis of the reports lodged by the 2nd respondent/ *de facto* complainant.

2. The petitioner was the husband of the 2nd respondent/ *de facto* complainant. During pendency of O.P.No.1312 of 2016 before the Judge, Family Court, Hyderabad, the petitioner went to the house of the 2nd respondent and abused her despite her resistance and when the petitioner attempted to kill, she raised cries to attract the attention of the owner of the house and when the owner of the house came to her rescue, she entered into the house and locked the door to protect her life and character. Therefore, the petitioner allegedly committed the above offences.

3. These petitions are filed on the ground that the 2nd respondent lodged reports with the police during pendency of O.P.No.1312 of 2016 before the Judge, Family Court, Hyderabad for different reasons. The 2nd respondent filed reports with the police, which is one of the subject matter of W.P.No.1296 of 2017, in which the petitioner obtained interim stay on 06.01.2017. The

petitioner submitted that the allegations made in both the reports are totally absurd and with a view to wreck vengeance. Hence, prayed to quash the proceedings.

4. During hearing, learned counsel for the petitioner while reiterating the contentions raised in the petition, drew the attention of this Court to the Judgment of the Apex Court in **Manoj Mahavir Prasad Khaitan v Ram Gopal Poddar and another**¹ to contend that when the allegations made in the reports are absurd, the Court can exercise its inherent power under Section 482 Cr.P.C. and quash the proceedings.

5. The power of this Court under Section 482 Cr.P.C can be exercised sparingly in exceptional circumstances to give effect to any order under this Code or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. Here the allegations made against the 2nd respondent are that she lodged reports with the police one after the other. The investigation in one of the crimes was stayed by this Court on 06.01.2017 vide W.P.No.1296 of 2017. While exercising jurisdiction under Section 482 of the 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 records, but it cannot appreciate evidence.

¹ (2010) 10 SCC 673

6. Here in this case, the allegations made in the reports lodged with the police clearly *prima facie* pointing out the complicity of the petitioner for the offences punishable under Sections 354D and 506 IPC. Mere filing of report, which is subject matter of the writ petition, is not a ground to quash the proceedings. Similarly the compromise was recorded before the Mediation Centre in O.P.No.1312 of 2016 wherein it was agreed that both parties are at liberty to marry at their choice after passing the decree of divorce by the Court and that no party will interfere in other party's marriage and that both parties agreed to withdraw their allegations made in O.P. It is also agreed that the both parties will not interfere against each other in day-to-day life on the date of recording compromise i.e. on 11.05.2017. The offences allegedly took place on 22.09.2017 i.e. subsequent to recording of compromise by Mediation Committee.

7. Despite agreeing not to interfere with the affairs of one party by the other party, the petitioner allegedly interfered with the day-to-day affairs of the 2nd respondent, abused her and made an attempted to kill her and snatched the cell phone and thereafter, apprehending danger to her life, she entered into the house and bolted door from inside and thus, the alleged agreement not to interfere with the affairs of the 2nd respondent by the petitioner is no way helpful to the petitioner.

8. On the other hand, if the allegations made in the reports lodged with the police are accepted, it amounts to violation of condition No.5 in Minutes recorded by the Mediation Committee.

However, at this stage, it is difficult to conclude that the petitioner committed any offence or not since the investigation is at foetus stage. The main contention before this Court is that this Court can exercise inherent jurisdiction, if the allegations are totally absurd and placed reliance in support of his contention in **Manoj Mahavir Prasad Khaitan's** case referred supra while reiterating the principles in **State of Haryana v. Bhajan Lal**² wherein it was held that it is true that, that is not the stage for finding out the truth or otherwise of the allegations, and the Court has to look into the complaint with open mind. But, where the allegations themselves are so absurd that no reasonable man would not accept the same, the High Court could not have thrown its arms in the air and express its inability to do anything in the matter. Section 482 Cr.P.C. is a guarantee against justice. The High Court is invested with the tremendous powers thereunder to pass any order in the interests of justice. The law laid down by the Apex Court is not in quarrel, but even apply the principle. The Court has to satisfy that there is no *prima facie* material against this petitioner to proceed further for the offences allegedly committed by him.

9. Normally, this Court would not exercise its inherent jurisdiction when the investigation is not yet commenced irrespective of the magnitude of facts and law. When the facts are incomplete and hazy before the Court, as held by the Apex Court in “**State of Orissa v. Saroj Kumar Sahoo**”³ the inherent powers under Section 482, Cr. P.C. should not be exercised by the High

² 1992 Supp. (1) SCC 335

³ (2005) 13 SCC 540

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 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 proceeding at any stage. While exercising jurisdiction under Section 482 of the 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 records but it cannot appreciate evidence. The Court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused.

10. In “**Kurukshetra University v. State Of Haryana**⁴”, the Supreme 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

⁴ AIR 1977 SC 2229

statutory power has to be exercised sparingly, with circumspection and in the rarest of rare cases.”

11. In view of the law declared by the Apex Court in both the judgments referred supra and when investigation is at foetus stage, this Court cannot interfere with the process of investigation and quash the proceedings by exercising inherent power under Section 482 of Cr.P.C. Therefore, I am not inclined to quash the proceedings at this stage.

12. Accordingly, the criminal petitions are dismissed directing the investigating agency to investigate both the offences jointly in accordance with law.

Miscellaneous petitions, if any, pending in these criminal petitions shall stand closed.

02.01.2018
kvrn

M. SATYANARAYANA MURTHY, J

