

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 12342 OF 2017

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') to quash the proceedings in crime No. 274 of 2017 of Railway Police Station, Secunderabad.

2. The basis for registration of the above crime initially under Section 174 of Cr.P.C. is the report of Sub Inspector of Police, Nacharam Police Station, Rachakonda. Later, based on the suicide note found at the scene of offence with the deceased, the Section of law is altered from 174 of Cr.P.C. to 306 of IPC and Section 3 (i)(x) of SC ST (POA) Act.

3. In the suicide note, some serious allegations are made against the petitioners that they threatened the deceased to go and die, otherwise they will kill her. Whether or not the above act would constitute the offence abetment as defined under Section 107 of IPC is to be looked into. According to Section 107 of IPC, a person abets the doing of a thing, who instigates any person to do that thing or engages with one or more person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing or intentionally aids, by any act or illegal omission, the doing of that thing. The allegations made in the suicide note would certainly fall within the first clause of Section 107 of IPC prima facie. Therefore, at this stage, this Court cannot exercise power under Section 482 of Cr.P.C. since such power can be exercised sparingly in exceptional circumstances to give effect to the orders passed under the Code or to prevent abuse of process of the Court or to secure ends of justice. Keeping in mind the

power of this Court under Section 482 of Cr.P.C., the Apex Court in **State of Haryana Vs. Bhajanlal**¹ laid down seven guidelines which are as follows:

- "(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code.
- (3) Where the allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code.
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

Even according to the above guidelines, when the allegations made in charge sheet or F.I.R. disclose commission of any offence on their face value, the Court

¹ 1992 Supp. (1) SCC 335

cannot exercise its inherent power under Section 482 Cr.P.C. Here in this case, the allegations made in the suicide note would constitute *prima facie* the above offences. Therefore, I find no ground to quash the proceedings at this stage.

4. The Apex Court in ***State of Orissa Vs. Saroj Kumar Sahoo***² held that the inherent powers under Section 482 of Cr.P.C. should not be exercised by 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. In the case on hand, the investigation is at the threshold and at this stage, this Court cannot exercise its inherent jurisdiction under Section 482 of Cr.P.C. to quash the proceedings, more particularly when the allegations made in the suicide note would constitute the above offences.

5. In view of my foregoing discussion, I find that it is not a fit case to quash the proceedings and consequently, the petition is liable to be dismissed.

6. The criminal petition is dismissed. Pending miscellaneous petitions, if any, in this criminal petition shall stand dismissed in consequence.

Date: 29-06-2018.

JSK

M.SATYANARAYANA MURTHY, J.

² (2005) 13 SCC 540