

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.2291 of 2019

ORDER:

1. This Criminal Petition is filed under Section 482 Cr.P.C. seeking to quash C.C.No.151 of 2019 of 2019 on the file of the learned XVII Additional Chief Metropolitan Magistrate at Nampally, Hyderabad.

2. A charge sheet came to be filed against the petitioners/accused Nos.1 to 4, based on the complaint lodged by one Mohammed Abdul Rasheed on 21.10.2017, for the offences punishable under Sections 420, 468 and 471 IPC. The same was taken on file as C.C.No.151 of 2019 of 2019 on the file of the learned XVII Additional Chief Metropolitan Magistrate at Nampally, Hyderabad.

3. Heard learned counsel for the petitioners and learned Additional Public Prosecutor for respondent No.2.

4. Learned counsel for the petitioners submitted that the Court below without considering the charge sheet, complaint, F.I.R., statement of witnesses and documents, has mechanically took cognizance against the petitioners basing on the complaint filed by respondent No.2; that the Court below erred in taking cognizance against the petitioner based on the opinion of the handwriting expert and prayed to quash the proceedings in the aforesaid C.C.

5. All the contentions raised by the learned Counsel for the petitioners relate to disputed questions of fact. The Court has also been called upon to adjudge the testimonial worth of the prosecution evidence and evaluate the same on the basis of various intricacies of factual details which have been touched upon by the learned Counsel for the petitioner. The veracity and credibility of material furnished on behalf of the prosecution has been questioned and false implication has been pleaded.

6. The law regarding sufficiency of material which may justify the summoning of the accused and also the Court's decisions to proceed against him in a given case is well settled. The Court has to eschew itself from embarking upon a roving enquiry into the last details of the case. It is also not advisable to adjudge whether the case shall ultimately end in conviction or not. Only a *prima facie* satisfaction of the Court about the existence of sufficient ground to proceed in the matter is required.

7. Through a catena of decisions given by the Hon'ble Apex Court, this legal aspect has been expatiated upon at length and the law that has been evolved over a period of several decades is too well settled. The cases of *Chandra Deo Singh Vs. Prakash Chandra Bose*¹, *Vadilal Panchal Vs. Dattatreya Dulaji Ghadignonker*² and *Smt Nagawwa Vs. Veeranna*

¹ AIR 1963 SC 1430

² AIR 1960 SC 1113

*Shivalingappa Konjalgi*³ may be usefully referred to in this regard.

8. The cases where the allegations made against the accused or the evidence collected by the investigating office do not constitute any offence or where the allegations are absurd or extremely improbable or impossible to believe or where the prosecution is legally barred or where the criminal proceeding is malicious and *mala fide*, instituted with an ulterior motive of grudge and vengeance alone may be fit cases for the High Court in which the criminal proceedings may be quashed. The Hon'ble Apex Court in Bhajan Lal's case (supra) has recognised certain categories in which Section 482 Cr.P.C. or Article 226 of the Constitution of India may be successfully invoked.

9. In view of the settled principles of the above case laws, this Court has adverted to the entire case record. The submissions made by the learned counsel for the petitioners call for adjudication on pure questions of fact which may be adequately adjudicated upon only by the trial Court and while doing so, even the submissions made on points of law can also be more appropriately gone into by the trial Court in this case. This Court does not deem it proper and therefore, cannot be persuaded to have a pre-trial before the actual trial begins. It shall suffice to observe that the perusal of the F.I.R. and the material collected by the investigating officer on the basis of which charge sheet has been submitted makes out a prima facie

³ 1976 (3) SCC 736

case against the accused at this stage and there appear to be sufficient ground for proceeding against the accused. I do not find any justification to quash the charge sheet or the proceedings initiated against the petitioners as the case does not fall in any of the categories recognised by the Apex Court which may justify their quashing and the prayer for quashing the C.C. is refused.

10. Accordingly, the Criminal Petition is dismissed. Miscellaneous petitions, if any, pending shall stand dismissed.

JUSTICE G. SRI DEVI

21st December, 2019
dr

