

THE HON'BLE JUSTICE G.SRI DEVI

Criminal Petition No.3116 of 2019

ORDER:

Heard the learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

Present petition has been filed by the petitioner with a prayer to quash all further proceedings in connection with crime No.43 of 2019 of Ghanpur (M) Police Station, Wanaparthi District, registered and altered to Section 306 of Indian Penal Code and to stay all further proceedings in the said crime.

It is contended by the learned counsel for the petitioner that there is no case against the petitioner and the charges against the petitioner are not maintainable under the facts and in the eye of law. It is also submitted that the statement recorded by the Police immediately after the admission of the deceased/victim in the Area Hospital on 20.04.2019 or the Dying Declaration recorded by the Magistrate does not disclose any offence committed by the petitioner herein in order to attract the offence of abatement, rather it proves that the petitioner is no way concerned/connected with the offence and only in order to harass the petitioner, Police have falsely implicated him. It is further submitted that the Police have not only turned blind eye to the Dying Declaration and also to the statements of the close relatives of the deceased, but for their convenience have falsely implicated the petitioner. Thus, prayed to quash the proceedings against the petitioner.

Learned Additional Public Prosecutor opposed the petition.

The law regarding sufficiency of grounds which may justify quashing of FIR in a given case is well settled. The Court has to

eschew itself from embarking upon a roaring enquiry into the details of the case. It is also not advisable to adjudge whether the case shall ultimately end in submission of charge sheet and then eventually in conviction or not. Only a *prima facie* satisfaction of the Court about the existence of sufficient ingredients constituting the offence is required in order to see whether the FIR requires to be investigated or deserves quashing. The ambit of investigation into the alleged offence is an independent area of operation and does not at all for interference in the same except in rarest of rare cases. The operational liberty to collect sufficient material, if there exists any, cannot be scuttled prematurely by any uncalled for over-stepping of the Court. It has to be an extremely discreet exercise. The Hon'ble Apex Court's decisions given in the case of ***R.P. Kapur vs. The State of Punjab***¹ and in the case of ***State of Haryana vs. Bhajan Lal***² have also recognized certain categories by way of illustration which may justify quashing of a complaint or charge sheet and the same may also be good grounds to quashing the FIR. Some of them also akin to the illustrative examples given in the case of ***Smt.Nagawwa vs. Veeranna Shivalingappa Konjalgi***³. The case is whether the allegations made against the accused in the FIR or the evidence collected by the investigating officer do not constitute any offence or whether the allegations are absurd or extremely improbable or impossible to believe or whether the Prosecution is illegally barred or whether the criminal proceedings are malicious and malafied, instituted only for ulterior motive of wreaking vengeance may be, illustratively, the fit cases

¹ AIR 1960 SC 866

² 1992 SCC (Cri) 426

³ (1976) 3 SCC 736

for the High Court in which the FIR or the criminal proceedings may be quashed. If a particular case falls in some such categories as recognized by the Apex Court in ***Bhajan Lal's case (supra)***, it may justify the interference by this Court in exercise of its inherent power as provided in the Code of Criminal Procedure or in exercise of its power vested by the Constitution of India.

Illuminated by the case law hereinabove, this Court has adverted to the entire facts available on record. The submissions made by the learned counsel for the petitioner call for a determination on pure questions of fact which may adequately discerned either through proper investigation or which may be adjudicated upon only by the trial Court. This Court does not deem it proper to suffocate the ambit and scope of independent investigation into the case. A thread-bare discussion of various facts and circumstances, as they embark from the allegations made against the accused, is being purposely avoided by the Court for the reason that the same might cause any prejudice to either side during investigation or trial. But, it shall suffice to observe that a perusal of the record makes out *prima facie* offence at this stage and there appears to be sufficient grounds for investigation in the case. I do not find any justification to quash the proceedings against the accused arising out of it as the case does not fall in any of the categories recognized by the Apex Court which may justify their quashing. Thus, the prayer for quashing the proceedings in crime No.43 of 2019 of Ghanpur (M) Police Station, Wanaparthi District, is refused as I do not find any breach of constitutional provisions or any abuse of process of law.

With the aforesaid observations, the Criminal Petition is finally disposed of.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

21st June, 2019
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JUSTICE G.SRI DEVI

