

THE HON'BLE JUSTICE G.SRI DEVI
CRIMINAL PETITION No.5194 of 2019

ORDER:

This Criminal Petition under Section 482 of Cr.P.C., is filed by the petitioner/A2 seeking to quash the proceedings in C.C.No.165 of 2018 on the file of Judicial First Class Magistrate, Sirpur, Adilabad District, registered for the offences under Sections 304-A, 337 IPC and under Sections 180 and 181 of Motor Vehicles Act, 1988 (for short 'the Act'), against him.

2. Heard learned counsel for the petitioner, learned Additional Public Prosecutor for the 1st respondent-State and perused the record.

3. It is alleged in the charge sheet that on 07.01.2018 at 2215 hrs, at the outskirts of Burdaguda Village of Kaghaznagar Mandal, A1 drove a tipper bearing No.AP-01-W-2099 in a rash and negligent manner and dashed against a tractor bearing No.TS 15 EB 5338 and Trailer bearing No.TS 15 EB 5339, which was loaded with paddy dry grass, from its behind, due to which, the tractor turned turtle resulting the death of the driver of tractor and also the death of another person while shifting to Karimnagar hospital. The petitioner/A2, who is the owner of crime vehicle, authorized A1, who was having LMV driving licence, to drive his heavy goods carriage tipper in violation of the provisions of the Act. Hence, the petitioner/A2 is liable for punishment for the alleged offences.

4. All the contentions raised by the learned Counsel for the petitioner 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.

5. 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.

6. Through catena of decisions given by the Hon'ble Apex Court, this legal aspect has been expatiated upon at length and the law that has evolved over a period of several decades is too well settled. The cases of ***Chandra Deo Singh v. Prokash Chandra Bose***¹; ***Vadilal Panchal v. Dattatreya Dulaji Ghadigaonker***² and ***Smt. Nagawwa v. Veeranna Shivalingappa Konjalgi***³ may be usefully referred to in this regard.

7. The cases where the allegations made against the accused or the evidence collected by the investigating officer 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

¹ AIR 1963 SC 1430

² AIR 1960 SC 1113

³ 1976 (3) SCC 736

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 **State of Haryana v. Bhajanlal**⁴ has recognized certain categories in which Section 482 Cr.P.C. or Article 226 of the Constitution of India may be successfully invoked.

8. 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 petitioner 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* 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 petitioner as the case does not fall in any of the categories recognized by the Apex Court which may justify their quashing. Accordingly, the prayer for quashing is refused.

9. However, it is observed that if the bail has not yet been obtained, the petitioner/A2 may appear before the Court below and apply for bail within a period of fifteen days from today and on such

⁴ 1992 Supp(1) SCC 335

application being filed, the Court below shall make an endeavour to decide the bail application on the same day. During the aforesaid period or till the date of appearance of the petitioner/A2 in the Court below, whichever is earlier, no coercive measures shall be taken against the petitioner or given effect to.

10. With the aforesaid directions, the Criminal Petition is disposed of.

11. Miscellaneous petitions, if any pending in this criminal petition, shall stand closed.

27th August, 2019

sj

G.SRI DEVI, J

