

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.4631 of 2014ORDER:

The petitioners are accused Nos.1 to 3 of CC.No.1347 of 2013 on the file of Chief Metropolitan Magistrate, Hyderabad, which is outcome of crime No.196 of 2013 of Hussaini Alam Police Station dated 23.09.2013 registered for the offences punishable under Sections 353, 506 r/w 34 IPC and the police after investigation filed the final report in the form of charge sheet on 30.09.2013 against the 3 accused from the investigation by examining the IO-LW.9 from the report of another Sub Inspector-defacto complainant K. Ramesh Goud of Hussaini Alam, besides the complainant examined as LW.1, the other eye witnesses LWs.2 to 8 including Assistant Sub Inspector of Police, HC 6701, HC 2681, PC 7964 and 3 unofficial witnesses Ghousuddin, Nadeem and Adnan (LWs.1 to 8 respectively). The report of the defacto complainant K. Ramesh Goud, Sub Inspector of Police on 23.09.2013 in registration of the crime against the accused shows that while he was present at the Hussaini Alam PS, CCS Auto Mobile Team ASI N.Padmanabham-LW.2 and his staff Yogeshwar-LW.3 (HC) came to the police station with one person by name Mohd. Imran-A3 S/o Karwan and handed over him stating that above person is writing false letters to the higher officials by misusing other innocent public names and signatures on that he along with his staff that is HC Rasheed-LW.4, constable Rambabu-LW.5 who was questioning about the facts with said Imran, 2 more persons by name Wajeed Khan-A2 and Majeed Khan-A1-advocate rushed into the room with shouting as to who are you and what powers you have to question his brother i.e., A3 brother of A1 and he did not commit any mistake and they will see his end that is complainant Ramesh Goud and they will cause suspend the

complainant (Ramesh Goud-SI) in a day and they also man handled him and pushed him aside and obstructed his legitimate duties and hence to take action against the 3 persons and it is therefrom the crime registered by SI Ch Srinivasulu-LW9 and investigated. The charge sheet speaks from the examination of witnesses that besides the witnesses corroborated about the occurrence the accused 1 to 3 on their individual interrogation made a disclosure and A3-Imran stated about his addressing false letters to higher officials by misusing the names and signatures of Md. Ghousuddin Business Man of Hyderabad against one Mr. Ehtesham Obaid and a gang of 13 members with regard to theft of Government manholes and public street lights of graveyards who is resident of address of Md. Nadeem-LW.7 of Khursheed Jah Devdi and on that the team of complainant that is ASI N.Padmanabham, LW.3 Yogeshwar HC handed over to Hussaini Alam PS and in the meantime while enquiring LWs.2 to 8 by the defacto complainant Ramesh Goud SI, accused Nos.1 & 2 supra rushed there shouting by using the words supra by questioning and manhandled by pushed aside and suspected the purpose of the duties from which they were after disclosure statements from the arrest produced later to judicial custody after following the procedure. The charge sheet further speaks from the evidence collected during investigation there is prima facie case and further A1 to A3 were involved in various crimes in Hyderabad city viz., crime No.86 of 2013 under Sections 448, 427, 506, 323 r/ w 34 IPC of Tappachabutra PS, crime No.115 of 2013 under Section 506 r/ w 149 IPC of Habeeb Nagar PS, crime No.328 of 2013 under Section 324 r/ w 34 IPC of Panjagutta PS. It is therefrom learned Magistrate has taken cognizance for the offences supra. The petitioners moved Crl.P.No.12481 of 2013 in seeking to quash said crime No.196 of 2013 supra and the same was dismissed by learned

single Judge of this Court dated 24.10.2013 by referring to several principles saying the crime is under investigation and the averments prima facie disclose commission of the offence from the incident and thereby no grounds to interdict the investigation to unfurl the truth that come out from the investigation.

2. The quash petition averments impugning the police charge sheet and cognizance order of the learned Magistrate therefrom on completion of the investigation, are that the mother of the accused Nos.1 to 3 by name Ghousia Begum was having 5 brothers and out of them 2 by names Ahmed Mohiuddin and Mahamood Mohiuddin in close terms with the petitioners/ accused Nos.1 to 3's mother, one of the brother by name Ahmed Mohiuddin obtained a loan of Rs.3,00,000/- from the petitioners/ accused Nos.1 to 3 in January 2011 to return back within four months which include some of the amount from the retirement benefits of the father of the petitioners/ accused Nos.1 to 3 and another brother of their mother by name Mahamood Mohiuddin approached with a promise to arrange government employee to A2-Wajeed Khan herein having taken Rs.2,00,000/- required to arrange government job. It is for return of the amount, the petitioners demanded them for which they colluded to avoid the payment of the amount to the mother of the petitioners. While so, on 12.05.2013 at about 08.30 PM when petitioners and their father were planning to attend the marriage function of their relatives Asif Mohiuddin, Hafeez Mohiuddin and Tauseef Mohiuddin who are sons of Ahmed Mohiuddin came to them and started quarreling with petitioners and their mother with abusive language for asking of the amount due of Rs.3,00,000/- by their father and when the 3rd petitioner-A3 Naveed Khan and his sister Nousheen tried to pacify the matter they did not control and attacked them and petitioners and their mother

rushed to Tappachabutra PS and lodged complaint and the Inspector asked to come on next day to receive complaint and to register crime and their mother came back and they went to the marriage function and on came to know of went to the police station to report, they again in the midnight came and attacked the petitioners' mother and on next day the petitioners mother gave complaint, the police did not arrest and as suspected there is conspiracy from which as a counter blast to the petitioners' mother complaint the crime No.87 of 2013 registered by Tappachabutra PS on 13.05.2013 under Sections 448, 506, 323 r/ w 34 IPC from the false story created by petitioners mother's brother Ahmed Mohiuddin and his another brother given another false complaint through his son Asif Mohiuddin and crime No.86 of 2013 which is to avoid the amounts due to the petitioners mother from her brother's family and there is another false complaint lodged by Mahamood Mohiuddin servant Mohd Chotu viz., crime No.328 of 2013 of Panjagutta PS dated 13.05.2013 under Section 324 IPC. The petitioners mother's brothers are Ex-rowdy sheeters having licensed pistols and even the petitioners' mother Ghousia Begum lodged complaint no action from which on private complaint crime No.103 of 2013 of Tappachabutra PS registered against her brothers and their families under Sections 420, 448, 506 r/ w 34 IPC on 11.06.2013 and the 3rd petitioner-A3 having been receiving the threatened phone calls when went to enquire therefrom the police Tappachabutra taken to police Hussaini Alam and lodged in a crime room forcibly and started putting unnecessary questions and on information the petitioners 1 & 2 of whom A1 is junior advocate approached the police but they unheeded and colluded in foisting a false case at the instance of their mother's brothers hence liable to be quashed.

3. Learned counsel for the petitioners reiterated the same as there is no such incident happened and it is a false case foisted. Whereas the learned Public Prosecutor in opposing the quash petition averments that there is a prima facie case and even FIR discloses the offence as observed by another bench of this Court in dismissal of the quash petition earlier and the police final report discloses the offence from which the learned Magistrate rightly taken cognizance and there is nothing to quash the proceedings hence to dismiss the petition.

4. A perusal of the additional material filed shows CC.No.58 of 2007 registered against the defacto complainant herein K. Ramesh Goud for the offences punishable under Sections 7, 13(1)(d) r/w 13(2) of PC Act where there is another accused officer K.Peethamber Babu and in that crime No.20/ ACB-CRI/ 2006 from the Anti Corruption Wing filed final report and CC.No.58 of 2007 allotted by taken cognizance and both the accused were tried and were convicted by judgment of the learned I Additional Special Judge for SPE & ACB cases dated 01.06.2016 and the appeal is pending.

5. It at best shows the conduct of the defacto complainant herein, but that itself is not sufficient to quash the proceedings. However, a perusal of the record shows the main endeavour of A1 and A2 who went to release their younger brother A3 when questioning by police is by saying why he was questioning for he did not commit any mistake to see that he will be released and not to attack any police officials at Hussaini Alam PS and what the police witnesses stated is the so called pushing or using of the word to cause suspend him or to see the end. Here therefrom offence under Section 506 IPC no way attracts for not a case of any fear to the mind of the Sub Inspector who is backing by other 4 police officials who are subordinates to him that too in the police station

and so far as the offence under Section 353 IPC concerned, only defacto complainant-Sub Inspector stated the accused persons manhandled him by pushed him aside and ASI-LW2 stated in same line so also LW.3-HC and LW.4-HC, LW.5-PC respectively and the 3 other witnesses LW.6 to 8 by names Md. Ghousuddin, Md. Nadeem and Adnan. Once such is the case, it when attracts the offence under Section 353 IPC there is nothing to quash the proceedings for the said offence which is a cognizable one, but for to face trial by left open all defence.

6. Having regard to the above and in the result, this Criminal Petition is partly allowed by quashing the offence under Section 506 r/ w 34 IPC by retaining the offence under Section 353 r/ w 34 IPC.

Miscellaneous petitions, if any, shall stand closed.

Date: 21.01.2019
ska

Dr. JUSTICE B. SIVA SANKARA RAO

