

HONOURABLE JUSTICE G. SRI DEVI
CRIMINAL PETITION No.7830 of 2019

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. seeking to quash P.R.C.No.21 of 2019 on the file of the learned Judicial First Class Magistrate, Kodad.

2. A charge sheet came to be filed against the petitioners/accused Nos.1 and 2 for the offences punishable under Sections 120(B) and 307 read with Section 34 IPC. The brief facts of the case are that on 02.9.2019 at about 9 pm after completion of pooja of Lord Ganesh installed in front of the Gram Panchayat Office, as per the request of accused No.1, the de facto complainant offered coconut to Lord Ganesh; that after some time as per the pre-plan, accused No.1 offered the de facto complainant liquor and took him to his house, where both consumed alcohol; that accused No.2, the younger brother of accused No.1, joined them in the party and they abused the de facto complainant as per their plan; that accused No.1 took an axe and accused No.2 took a stick and attacked the de facto complainant with those weapons with an intention to kill; that both tried to beat him with those weapons on his head and when the de facto complainant placed his both hands to escape from them, he received severe confusion injuries; that further both beat him with an axe and stick on his back, both hands, left hand thumb, legs indiscriminately and caused severe confusion injuries; that due to fear, he raised hues and cries and started to escape from them; that both the accused chased him with an

intention to kill the de facto complainant, but he escaped from there and went to his house. After following the procedure prescribed, the Police registered a case in Crime No.90 of 2019 for the offences punishable under Sections 120(B) and 307 read with Section 34 I.P.C. After completing the investigation, the police filed charge sheet against the accused, which was taken cognizance as P.R.C.No.21 of 2019.

3. Heard learned counsel for the petitioners and learned Additional Public Prosecutor for respondent No.1-State.

4. Learned counsel for the petitioners submits that the Police with the active collusion of the de facto complainant falsely implicated the petitioners in the above case; that the petitioners are politically working in Congress party for the last 20 years; that on 03.9.2019 the de facto complainant made a complaint; that on 04.9.2019, the said complaint was withdrawn; and that the Police without conducting further investigation filed a charge sheet and therefore, the aforesaid proceedings against the petitioners are liable to be quashed.

5. Learned Additional Public Prosecutor opposed the petition contending that only after completion of investigation, the Police filed the charge sheet in the aforesaid case and prayed to dismiss the petition.

6. 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.

7. 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.

8. On perusal of the impugned charge sheet and the material in support of the same, this Court does not find it to be a case which can be determined or gone into in an application under Section 482 Cr.P.C. This Court cannot hold a parallel trial in an application under Section 482 Cr.P.C. No such ground appears to be available to the petitioner on the basis of which the impugned charge sheet can be quashed going by the settled law in *R.P.Kapur v. State of Punjab*¹; *State of Haryana v. Bhajan Lal*²; *State of Bihar v. P.P.Sharma*³ and *Zandu Pharmaceutical Works Limited v. Mohd. Saraful Haque and another*⁴. Hence, the prayer for

¹ AIR 1960 SC 866

² (1992) SCC (Cr.) 426

³ (1992) SCC (Cr.) 192

⁴ (2005) SCC (Cr.) 283

quashing the proceedings in P.R.C.No.21 of 2019 on the file of the learned Judicial First Class Magistrate, Kodad, is refused.

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

10. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

JUSTICE G. SRI DEVI

04th December, 2019
dr

