IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT HYDERABAD

THURSDAY, THE TENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HONOURABLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION NO: 5456 OF 2020

Between:

1. T. Jayaprakash Reddy, S/o T. Jagga Reddy, Aged about 52 years, OCC. MLA, R/o. H.No 2-6-131, Ramnagar, Sanga Reddy, Medak District.
2. Thopaji AnanthaKishan, S/o. Eshwaraiah, Aged about 53 years, OCC. library Chairman, R/O. H.No 2-2-51, Madhavanagar, Sanga Reddy, Medak District.
3. KunaSantosh Kumar, S/o Durgaiah, Aged about 32 years, OCC. Business, R/O. H.No 6-6-125/5, Shivaji Nagar,Sanga Reddy, Medak District.
4. Gundelwari Mahesh, S/o Satyaaarayana, Aged about 33 years, OCC. Business, R/O. H.No 5-1-32/10, SaiNagar,Sanga Reddy Medak District.
5. ShaikSaber, S/o ShaikSardar, Aged about 38 years, OCC. Business, R/O. H.No 5-4-105, Maqdoom Nagar, 2-6-131, Sanga Reddy, Medak District.
6. Uggu Sathish, S/o. Mallaiah, Aged about 30 years, OCC. Business, R/o. H.No 5-1-33/8/A, Sai Nagar, Sanga Reddy, Medak District.
7. Rudraram Kiran Goud, S/o. Sudhakar Goud, Aged about 36 years, OCC. Business, R/o. H.No 5-1-32/10, SaiNagar, Sanga Reddy, Medak District.
8. Kasini Srikanth, S/o Shiva Ramulu, Aged about 35 years, OCC. Business, R/o. H.No 2-4-65, BasawesharaNagar,Sanga Reddy, Medak District.
9. Mukurala SrikanthGoud, S/o Sathaya Narayna Goud, Aged about 45 years, OCC. Business, R/O. H.No 4-6-156/A, Ramnagar, Sanga Reddy, Medak District.
10. Manoor Sudeep, S/o Muthaiah Shetty, Aged about 30 years, OCC Business, R/o. H.No 6-6-17/4, Shivaji Nagar, Sanga Reddy, Medak District.
11. Kotagiri Arjun, S/o Prasad, Aged about 30 years, OCC. Business, R/o. H.No 4-4-1, Indira Nagar. Sanga Reddy, Medak District.
12. Buchi Arjunlal, S/o Mothilal, Aged about 25 years, OCC. Business, R/o H.No 1-6-126/12, Drivers Colony, Sanga Reddy, Medak District.
13. Chakali Sanjay Kumar, S/o Sangappa, Aged about 41 years, OCC. Business, R/o H.No 5-8-124/95, Narayaa Reddy Colony, Sanga Reddy, Medak District.
14. Mohd Abdul Waheed, S/o Abdul Rahaman, Aged about 41 years, OCC. Business, R/O. H.No 5-8-138, Back Side of Vidhyanikethan School, Shanti Nagar, Sanga Reddy, Medal, District.
15. Mohd Abdul Ahmed Ali, S/o Khasim Ali, Aged about 28 years, OCC. Driver, R/o. H.No 4-4-52, Indira Nagar, Sanga Reddy, Medak District.

...Petitioners/Accused No.1 to 15

AND

1. Sri P Laxma Reddy, Sub-Inspector of Police, Sanga Reddy Town Police Station.

...Respondent/Complainant

2. The State of Telangana, represented by its Public Prosecutor, High Court, at Hyderabad.

...Respondent/Complainant

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash all further proceedings against the Petitioners in C.C No 6 of 2019 on the file of the Special Sessions Judge for MP and MLA Court at Hyderabad.

I.A. NO: 2 OF 2020

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay of all further proceeding against the Petitioners in C.C. No 6 of 2019 on the file of the Special Sessions Judge for MP and MLA Court, at Hyderabad pending disposal of the main case.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri K. Surender, Advocate for the Petitioners and the Public Prosecutor on behalf of the Respondents.

The Court made the following: ORDER

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.5456 OF 2020

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), is filed by the petitioners/A1 to A15, to quash the proceedings in C.C.No.6 of 2019 on the file of the Special Sessions Judge for MP & MLA Court at Hyderabad, wherein charges are framed for the offences punishable under Sections 143, 353, 186 and 188 of IPC.

2. Heard the learned counsel for the petitioners/A1 to A15, the learned Public Prosecutor representing the respondents and perused the record.

3. Learned counsel for the petitioners would submit that no requisite complaint is filed as required under Section 195(1)(a)(i) of Cr.P.C. to take cognizance for the offence punishable under Section 188 of IPC. Furthermore, there is no material at all and there are no ingredients to constitute the offences punishable under Sections 143, 353, 186 and 188 of IPC. The Court below erroneously framed charges against the petitioners/A1 to A15 for the offences punishable under Sections 143, 353, 186 and 188 of IPC. The learned counsel relied on the decision of this Court in ***Kodela Siva Prasad Rao v. Koritala Venkata Ramanaiah***[1] and ultimately, prayed to quash

[1] (2006(3) ALT (CRL) 495

the proceedings in C.C.No.6 of 2019 pending on the file of the Special Sessions Judge for MP & MLA Court at Hyderabad.

4. On the other hand, learned Public Prosecutor would submit that admittedly, no requisite complaint in writing in terms of Section 195(1)(a)(i) of Cr.P.C. was made. There are specific allegations against the petitioners/ A1 to A15 with regard to the commission of offences punishable under Sections 143, 353, 186 and 188 of IPC. Therefore, the Court below had rightly framed the charges and proceeding with and ultimately, prayed to dismiss the criminal petition.

5. Having submitted for a considerable time, learned counsel for the petitioners/A1 to A15 would submit that without discussing the material on record elaborately, the charge framed against the petitioners/A1 to A15 for the offence punishable under Section 188 of IPC only be quashed, in view of non-compliance of requirements under Section 195 (1)(a)(i) of Cr.P.C.

6. In view of the submission made by the learned counsel for the petitioners/A1 to A15, it is not necessary to go into the merits of the case and pass a detailed order with regard to framing of charges for the offences punishable under Sections 143, 353 and 186 of IPC.

7. The Apex Court in ***Pankaj Aggarwal and others v. State of Delhi and others***[2] ***and Durgacharan Naik and others v. State of Orissa***[3] held that there shall be a written complaint by appropriate authority as required under Section 195(1)(a)(i) of Cr.P.C. to take cognizance for the offence punishable under Section 188 of IPC. Admittedly, in the instant case, no complaint was filed as required under Section 195(1)(a)(i) of Cr.P.C. Without there being such written complaint, cognizance was taken by the Court below for the offence punishable under Section 188 of IPC along with other offences. Furthermore, charges were also framed against the petitioners/A1 to A15 for all the offences indicated above. The decision in ***Kodela Siva Prasad Rao***'s case (1 supra), relied upon by the learned counsel for the petitioners, is distinguishable from the facts and circumstances of the case on hand.

8. Section 195(1)(a)(i) of Cr.P.C. mandates filing of a complaint in writing by a public servant and the police cannot register an FIR and investigate the case and thereafter file report, in case where the alleged offence is under Section 188 of IPC. A complaint in writing by a public servant is essential for a Magistrate to take cognizance of the offence under Section 188 of IPC. In the instant case, though the petitioners/accused are proceeded for the offence under Section 188 of IPC and also for the offences punishable under Sections 143, 353 and 186 of IPC, the requirements under Section 195(1)(a)(i) of Cr.P.C are

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[2] **2001(4) SCALE 235**
[3] AIR 1966 SC 1775

required to be satisfied to take cognizance for the offence under Section 188 of IPC. Admittedly, there is no complaint in writing by a public servant. Therefore, registration of FIR, filing of Final Report as well as taking cognizance of the offence under Section 188 of IPC are unsustainable. So the charge framed for the offence under Section 188 of IPC is liable to be quashed.

9. Accordingly, cognizance taken and the charge framed against the petitioners/A1 to A15 for the offence punishable under Section 188 of IPC are quashed. The Court below is entitled to proceed against the petitioners/A1 to A15 for the offences punishable under Sections under Sections 143, 353 and 186 of IPC in accordance with law.

10. In the result, the Criminal Petition is partly allowed. Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

Sd/-M.RAMANA KRISHNA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Additional Judicial First Class Magistrate, at Sangareddy.
2. The Special Sessions Judge for MP and MLA Court, at Hyderabad
3. The Station House Officer, Sangareddy Town Police Station, Sangareddy, District.
4. Two CCs to the Public Prosecutor, High Court for the State of Telangana, at Hyderabad [OUT]
5. One CC to Sri K. Surender, Advocate [OPUC]
6. Two CD Copies

MMK

HIGH COURT

DRSAJ

DATED:10/12/2020



ORDER

CRLP.No.5456 of 2020

PARTY ALLOW IN CRIMINAL PETITION

(8) VLV 18/12/20