

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.8096 of 2019

ORDER:

The present Criminal Petition is filed by the petitioner/ A-1, under Section 482 of Cr.P.C., seeking to quash the proceedings initiated against him in Crime No.235 of 2019 of L.B.Nagar Law and Order Police Station, Rachakonda, which was registered for the offences punishable under Sections 170, 419, 467, 468 and 471 of I.P.C. and Section 25 (1B) (a) of the Arms Act.

The case of the prosecution is that on 27.02.2019 at about 6.00 P.M. while the 2nd respondent/*de facto* complainant along with staff was conducting vehicle checking in front of Mahindra Show Room, opposite to Alekhya Towers, they observed one Fortuner Vehicle bearing No. TS 07 GD 8686 proceeding towards Gayathri Nagar from Sagar Cross Roads and on suspicion, they stopped the said vehicle and, on search, they found one Air Pistol from the inmates of the Car. On enquiry, the said persons disclosed their names as (1) Kasireddy Venkateshwar Reddy (petitioner herein), (2) Talluri Ashok and (3) Devireddy Akki Reddy. Immediately, the 2nd respondent/*de facto* complainant secured two panchas and conducted confession-cum-scene of offence panchanama and took them into custody and also seized one Air Pistol with bullets, fake police department identity cards, net cash of Rs.30,000/-, two mobile phones from the possession of the petitioner/A-1; one police

department fake identity card, net cash of Rs.5,000/- and two mobile phones from the possession of A-2 and net cash of Rs.1000/- and one mobile phone from the possession of A-3 in the presence of panchas. On further enquiry, it came to know that earlier the petitioner/A-1 worked as Home Guard. The accused created the fake police I.D. Cards and intended to misuse the power of the Police and also erected police siren to their Fortuner vehicle to grab money from the innocents by showing the fake Police I.D. Cards and Air pistol, which led to damage the police image in the society.

Heard the learned Counsel for the petitioner/A-1 and learned Additional Public Prosecutor appearing for the respondent-State.

Learned Counsel for the petitioner/A-1 submitted that a false case has been registered against the petitioner/A-1 by the 2nd respondent/*de facto* complainant only to harass him even though the Air pistol did not belong to him and, therefore, continuation of proceedings is an abuse of process of law and the same is liable to be quashed. It is further submitted that the petitioner/A-1 had joined in Traffic Police Station, Abids, in 2014 and since then he has been discharging Tappal Duty at Traffic Police Station, Abids i.e., general duty from 10.00 A.M., to 5.00 P.M. It is further submitted that on the date of incident i.e., on 25.02.2019 after the duty hours, the petitioner returned to his house situated at New Gayatrinagar, Jillelaguda and at about 7.00 P.M., A-2 and A-3, who are Ex-Home guards, came to his house and asked him to accompany for dinner and while they

were proceeding to Café-E-Bahar in the Fortuner Car bearing No.TS 07 TD 8686 belonging to A-2, the Car was stopped by the police officers. It is also submitted that the police found an Air Pistol in the possession of A-3, which he had bought from M/s. Ghouse Arms and Ammunition Factory. Despite knowing that the Air pistol did not belong to the petitioner/A-1, a false case has been registered against him. It is also submitted that the petitioner/A-1 has apprised to his superiors the reason for possessing I.D. Card without stamp and signature that, in the year 2012, as the Home Guards had meagre salary, the R.T.C. did not allow the Home Guards to enjoy the benefits of N.G.Os. to travel in R.T.C. buses and, therefore, he got the bus pass of R.T.C. by pretending to be a police constable and bought the police constable voucher. However, he did not choose to use the I.D. Card of police constable as it may amount to cheating. The petitioner/A-1 has been discharging his assigned duties to the best satisfaction of his superiors since the date of his joining and now on account of false charges, the petitioner/A-1 and his family would be put to great hardship and loss.

Learned Additional Public Prosecutor appearing for the 1st respondent-State opposed the prayer for quashing of the F.I.R. and submits that the 2nd respondent/*de facto* complainant seized the Air pistol and fake police I.D. Card from the possession of the petitioner/A-1 which clearly discloses cognizable offence and the F.I.R. lodged in this case cannot be quashed.

In *State of Haryana v. Bhajan Lal*¹ in which the Apex Court has laid down the following guidelines.

"In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers Under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima-facie constitute any offence or make out a case against the accused.
2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers Under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code.
3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

¹ (1992) SCC (Cr.) 426

4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated Under Section 155 (2) of the Code.

5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

In the instant case, a perusal of the material on record would show that the police arrested the petitioner/A-1 and other inmates of the Car apprehending that they might have committed the offence with the weapon i.e., Air pistol. Admittedly, no licence is required to possess the Air pistol. Apart from that, A-3 has purchased the said Air pistol and that the petitioner/A-1 has nothing to do with the said Air pistol. Therefore, *prima facie*, no case has been made out against the petitioner/A-1.

In view of my foregoing discussion, I find that it is a fit case to exercise inherent jurisdiction under Section 482 Cr.P.C. to quash the proceedings against the petitioner/A-1 in Crime No.235 of 2019 of L.B.Nagar Law and Order Police Station.

Accordingly, the Criminal Petition is allowed and the proceedings against the petitioner/A-1 in Crime No.235 of 2019 of L.B.Nagar Law and Order Police Station, Rachakonda District, are hereby quashed.

Miscellaneous applications, if any, pending shall stand dismissed.

JUSTICE G. SRI DEVI

18.03.2020
gkv/Gsn

