

HONOURABLE JUSTICE G.SRI DEVI

CRIMINAL PETITION No. 11969 of 2018

ORDER:

The present Criminal Petition is filed by the petitioner/ accused, under Section 482 of Cr.P.C., seeking to quash the proceedings initiated against him in C.C.No.265 of 2017 on the file of the Judicial Magistrate of First Class, Peddapalli, Karimnagar District. A charge sheet came to be filed against the petitioner/ accused for the offence punishable under Section 506 of I.P.C.

The allegations in the charge sheet, in brief, are that the 1st respondent/ *de facto* complainant is resident of Peddabonkoor Village; that he had purchased land admeasuring Ac.5.95 guntas in Sy.No.656/ A for Rs.2,05,000/- per gunta from Thallapalli Laxminarayana, S/o. Mallaiah, R/o. Secunderabad and on 21.07.2016 he had paid Rs.5,00,000/- towards advance and executed a bond paper in favour of his son. On 21.08.2016, when the 1st respondent/ *de facto* complainant got measure the land the Government re-constituted the districts in Telangana State and declared Peddapalli as District. On that, said Laxminarayana refused to register the land to the 1st respondent/ *de facto* complainant due to increase of the land rate as such, the son of the 1st respondent/ *de facto* complainant filed O.S.No.46 of 2016 and obtained injunction vide I.A.No.275 of 2016 and the said suit is pending before the Court. The petitioner/ accused, who is brother-in-law of Laxminarayana, made phone call in the month of August, 2015 to the mobile number of the 1st respondent/ *de facto*

complainant and threatened him on the name of Janashakthi Sagar that to take return the advance money, otherwise he will kill him. On 07.09.2016 at about 10.01 hours also the petitioner/ accused made phone call to the son of the 1st respondent/ *de facto* complainant from his mobile No.8341672229 and threatened him on the name of Janashakthy Sagar, that if he did not cancel the bond paper and take back the advance money, he will kill him.

Though notice served on the 1st respondent/ *de facto* complainant none appeared on his behalf. Hence, heard the learned Counsel for the petitioner/ accused, learned Additional Public Prosecutor appearing for the 2nd respondent-State and perused the record.

Learned Counsel for the petitioner/ accused would submit that the petitioner/ accused has nothing to do with the transaction between the 1st respondent/ *de facto* complainant and Thallapalli Laxminarayana and the son of the 1st respondent/ *de facto* complainant also filed a suit against Thallapalli Lakshminarayana, as such, the dispute is purely civil in nature and the police without investigating the matter properly and without collecting the call data filed the charge sheet against the petitioner/ accused and that there is no incriminating evidence against the petitioner/ accused, therefore continuation of proceedings against the petitioner/ accused would amount to an abuse of process of law.

In *State of Haryana v. Bhajan Lal*¹ the Apex Court considered in detail the powers of High Court under Section 482 of Cr.P.C. to quash criminal proceedings. The Apex Court summarized the legal position by laying down the following guidelines to be followed by High Courts in exercise of their inherent powers to quash a criminal complaint:

- (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 FIR 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 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.
- (4) Where, the allegations in the FIR 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

¹ 1992 Supp (1) SCC 335

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.

Keeping in mind the law laid down by the Apex Court, I would like to examine the allegations made in the charge sheet to find out whether those allegations constitute offence punishable under Section 506 of I.P.C.

As seen from the allegations in the charge sheet, it reveals that there is no incriminating material against the petitioner/accused, except the bald and general allegation that the petitioner/accused had threatened the 1st respondent/ *de facto* complainant. Apart from that the son of the 1st respondent/ *de facto* complainant filed a civil suit and obtained injunction against his vendor. The entire prosecution case is based on the telephonic call made by the petitioner/accused to the 1st respondent/ *de facto* complainant, but the police without

collecting the call data filed the charge sheet against the petitioner/ accused.

In Prof. R.K.Vijayasathya and another v. Sudha Seetham and another² the Apex Court held that "where the averments in the complaint read on its face, do not disclose the ingredients necessary to constitute offences under the Penal Code, it amounts to abuse of process of law".

On over all consideration of entire material placed on record and the contentions urged before this Court by the learned counsel for the petitioner/ accused, the law declared by the Apex Court in the judgments referred supra, it is suffice to conclude that the material produced before this Court, directly indicates the mala fides in prosecution of criminal proceedings against the petitioner/ accused, so also, by abuse of process of the Court, as an arm-twisting method to bring the brother-in-law of the petitioner to the terms of the 1st respondent/ *de facto* complainant and to cloak a civil dispute with criminal nature, has resorted to criminal litigation.

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/ accused in C.C.No.265 of 2017 on the file of the Judicial Magistrate of First Class, Peddapalli, Karimnagar District.

² (2019) 3 Scale 563

Accordingly, the Criminal Petition is allowed. The proceedings in C.C.No.265 of 2017 on the file of the Judicial Magistrate of First Class, Peddapalli, Karimnagar District, against the petitioner/ accused are hereby quashed.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE G. SRI DEVI

19.02.2020
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