

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WEDNESDAY, THE SIXTH DAY OF JANUARY
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE SRI JUSTICE T.VINOD KUMAR

CRIMINAL PETITION NO: 6556 OF 2020

Between:

Syed Mohinuddin, S/o Jainullabuddin, Aged about 40 years, Occ. Business, R/o Plot No.101, HIG 116, Karre cottage, 6th Phase, KPHB, Hyderabad

...PETITIONER

AND

1. The state of Telangana, Rep by Its Public Prosecutor Through P.S. Bhainsa Town Adilabad district Presently Nirmal District, High Court of Telangana.
2. Smt. Akula Vandana, W/o Gopal Aged about 40 years, Occ. ANM in Government Area Hospital, R/o Batti Galli, Bhainsa, Nirmal District.

...RESPONDENTS

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 call for the records relating to the FIR vide Crime No. 61 of 2019 dated 2/4/2019 and there after Quash the above said FIR vide crime No. 61 of 2019 dated 2/4/2019 which is being pending before P.S. Bhainsa Town Nirmal District against the Petitioner

I.A. NO: 1 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, grant stay all further proceedings, including arrest and appearance of the Petitioner in Crime No. 61 of 2019 dated 2/4/2019 which is being pending before P.S. Bhainsa Town Nirmal District, until disposal of the main criminal Petition

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri PARANDKAR DEVENDER, Advocate for the Petitioner and the Additional Public Prosecutor on behalf of the Respondent No.1 and of None appeared for the Respondent No. 2

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

CRIMINAL PETITION No.6556 of 2020

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. seeking to quash the proceedings, in FIR No.61 of 2019 dated 02.04.2019 on the file of Bhainsa Town Police Station, Nirmal District, registered for the offences punishable under Sections 404, 420 IPC, wherein the petitioner herein is arrayed as the sole accused.

2. The criminal petition is taken up for hearing today, i.e. 06.01.2021, through Video Conferencing.

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

4. Learned counsel for the petitioner would submit that the alleged overt acts for which the 2nd respondent had approached the 1st respondent authority and lodged a complaint are all relating to the period 2016, while the present complaint came to be lodged on 02.04.2019, after a lapse of three years. Learned Counsel for the petitioner would submit that the static silence maintained by the 2nd respondent/defacto-complainant for over a period of three years would need be taken note of which would only go to show that the present complaint lodged against the petitioner is not a genuine complaint, but it is a vexatious complaint. Learned Counsel for the petitioner would also submit that when the acts alleged in the complaint itself complained by the 2nd respondent/defacto-complainant relating to the year 2016, the 1st respondent authority ought not to have entertained the same

having regard to the provisions of Section 468 Cr.P.C. Learned Counsel thus submits that permitting to proceed with the present crime registered would be clearly an abuse of process of Court.

5. Learned Additional Public Prosecutor on the other hand would submit that based on the complaint laid by the 2nd respondent/*defacto*-complainant, the above crime has been registered and being investigated into by the respondent authority. Learned Additional Public Prosecutor would however fairly submit that having regard to the delay in respondent/*defacto*-complainant approaching and lodging the complaint, the respondent authority would take every precaution before taking any further action by putting the petitioner on notice.

6. Having regard to the submissions made as above, and considering the delay in lodging the complaint by the 2nd respondent/*defacto*-complainant would be a major factor thereby vitiating the proceedings, this Court is of the view that the respondent authority is to be directed to follow the procedure prescribed under Section 41-A Cr.P.C., and to strictly adhere to the guidelines laid down by the Hon'ble Supreme Court in **Arnesh Kumar v. State of Bihar**¹ and act in accordance with law.

7. Subject to the above direction, the criminal petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

¹ (2014) 8 SCC 273

Sd/-CH.VENKATESHWARLU
ASSISTANT REGISTRAR
SECTION OFFICER

//TRUE COPY//

To,

1. The Judicial First Class Magistrate, Bhainsa Nirmal District
2. The Station House Officer, Bhainsa Police Station Bhainsa Nirmal District
3. One CC to SRI PARANDKAR DEVENDER Advocate [OPUC]
4. Two CCs to PUBLIC PROSECUTOR, High Court for the State of Telangana at Hyderabad [OUT]
5. Two CD Copies

HIGH COURT
TVKJ
DATED:06/01/2021



ORDER
CRLP.No.6556 of 2020

DISPOSING OF THE CRIMINAL PETITION

ATD (7)
21/1/2021