IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

MONDAY, THE SIXTH DAY OF JUNE
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE SRI JUSTICE K.LAKSHMAN

CRIMINAL PETITION NO: 9867 OF 2021

Between:

U.V. Suresh Kumar, S/o. Late V.H. Rao, Aged about 52 years, Occ. Advocate, R/o. Plot No.32, B.N.Reddy Colony, Vanasthalipuram, Hyderabad-70

...Petitioner

AND

1. The State of Telangana, represented by its Public Prosecutor, High Court, at Telangana, Hyderabad, Through SHO P.S.Vanashalipuram
2. Yerrabyru Jagan Mohan Reddy, S/o. Damodhar Reddy, Aged about 35 years, Occ. Junior Advocate, R/o. H.No. 10-4-99/32, Altaf Nagar, Biramalguda, L.B.Nagar, Hyderabad.

...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 Quash the C.C.No. 994 of 2020 on the file of the XXIV Metropolitan Magistrate, Cyberabad, at Hayath Nagar. (As per the Court Order dated.01.02.2022, in I.A.No.1 of 2022 prayer in amended in Crl.P.No. 9867 of 2021)

I.A. NO: 1 OF 2021

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 dispense with filing of the Certified copy of Docket proceedings vide Sr.No.1717 of 2018 Dated 13/03/2018 on the File of XXIV Metropolitan Magistrate, Cyderabad Hayatnagar Crime on the file of Vanasthalipuram Police Rachakonda for the offences U/s 406, 418, 420, 424, 427, 465, 468, 471, 379, 411, 414, 506 IPC.,

I.A. NO: 2 OF 2021

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 all further proceedings in Sr.No.1717 of 2018 in C.C.No.994 of 2020 Dated.02.10.2020of Vanasthalipuram Police Station, pending on the file of the XXIV Metropolitan Magistrate, Rachakonda, at Hayatnagar including appearance of petitioner.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Mr. U.V. Suresh Kumar, (Party- in- Person), Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent No.1 and of M/s V. Yadu Krishna Sainath, Advocate for the Respondent No.2

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION No. 9867 OF 2021

ORDER:

Heard learned party-in-person, learned Public Prosecutor, and of Sri V. Yadu Krishna Sainath, learned Counsel appearing for 2nd respondent.

2. This petition is filed under section 482 of Code of Criminal Procedure to quash the docket proceedings dt.13.03.2018 vide USR No.1717 of 2018 passed by the learned XXIV Metropolitan Magistrate at Hayathnagar. During the pendency of the said criminal petition, the petitioner herein filed I.A. No.1 of 2022 seeking permission to amend the main prayer to quash the proceedings in C.C. No.994 of 2020 instead of above said docket proceedings on the ground that the Investigating Officer has already laid charge sheet in Crime No.340 of 2018. This Court vide order dated 01.02.2022 ordered the said application. Thus, the present petition is filed to quash the proceedings in

C.C.No.994 of 2020 pending on the file of XXIV Metropolitan Magistrate at Hayathnagar.

3. The petitioner herein is A-1 in the said C.C. No.994 of 2020. The offences alleged against him are under sections 406, 418, 420, 424, 427, 465, 468, 471, 379, 411, 506 of IPC. A perusal of the record would reveal that the 2nd respondent/de facto complainant had filed a petition under Section 200 Cr.P.C., and the learned Magistrate had referred the same to Police Station, Vanasthalipuram, under section 156(3) of Code of Criminal Procedure, who in turn registered a case in Crime No.340 of 2018 against the petitioner herein, A2 and A3 for the aforesaid offences. On completion of investigation, the Investigating Officer had laid charge sheet against the accused. The same was taken on file as C.C.No.994 of 2020.

4. It is relevant to note that during the course of investigation, the Investigating Officer had recorded the statements of 2nd respondent/de facto complainant as LW.1, eyewitness as LW.5, circumstantial witnesses as LWs 2, 3, 4, 6 and 7 to 10. On consideration of the statements recorded under Section 161 of Code of Criminal Procedure, the Investigating Officer had laid charge sheet against the petitioner herein.

5. As per the charge sheet, the allegations levelled against the petitioner herein and other accused are as follows:

One A. Vasudeva Reddy, Head Constable, Police Station Vanasthalipuram, introduced LW.1, junior Advocate, to petitioner/A-1, a practicing Advocate. Later, A-1 requested LW.1 to join in his office as a junior. After sometime, LW.1 requested his friend LW.7 to join the office of A-1 as junior. Accordingly, both LW.1 and LW.7 joined in the office of A-1. After sometime, A-1 informed both LW.1 and LW.7 to

introduce their friends, who are in need of money, so that A-1 will give them money on payment of interest. Accordingly, LW.1 introduced his friend LW.6, who is in need of money. A-1 has lent an amount of Rs.3,00,000/- to LW.6 on payment of interest @ Rs.3/- per month. A-1 has obtained blank signed cheques, promissory notes, etc., as security from LW.6.

5.1 LW.1 and LW.7 came to know that A-1 has been deceiving, blackmailing and threatening his clients and debtors by filing false cases against them. A-1 did not spare his friends also and A-1 did not allow LWs 1 and 7 to concentrate on their practice and profession. A-1 had used both LWs 1 and 7 for collecting interest amounts from his debtors. He has not allowed them to open the file, prepare notes and also arguments etc., Due to the said behaviour of A-1, LW.1 lost interest in the legal profession. Both LWs. 1 and 7 decided to leave office of A-1. They have informed him accordingly. A-1 bore grudge against

LW.1 and hatched a plan with an ill-intention to trap LW.1. With the said intention, on 17.10.2016 at about 8.00 a.m., A-1 requested LW.1 over phone to send two wheeler vehicle i.e. Suziki Access bearing No.AP-BR-6675, which is standing on the name of his mother, LW.2, along with water can filled with mineral water on the ground that A-1's car got punctured, there is no time to him to get water can as he wants to reach the Court during call work time. In fact, LW.1 expressed his inability to get water can since he was going to his native place. Therefore, he has instructed LW.3 to go to the house of A-1, and also LW.4, office boy of A-1, to show the house of A-1 to his brother LW.3. Accordingly, LW.4 took LW.3 to the house of A1 on the said motorcycle, who in turn received the said water can. A-1 requested LW.3 to keep the above said motor bike in his house for temporary use because his car got punctured, LW.3 refused to keep the vehicle. Then, A-1 called LW.1 and requested him to keep the

said vehicle on the ground A-1 is not in a position to go out. LW.1 obeyed his request, and he has instructed LW.3 accordingly. LW.3 left the above said vehicle along with original documents such as R.C., Insurance papers, one partly filled cheque and promissory note given by LW.1's client Goverdhan Reddy for issuance of legal notice to one B. Srinivasulu.

5.2 LW.3 specifically informed A-1 at the time of giving vehicle that some partly filled client documents were in the vehicle and A-1 assured LW.3 to return the vehicle along with said document safely to LW.1. Later, when LW.1 asked A-1 to return the vehicle, A-1 postponed the same and did not return the above said vehicle and also the documents belonging to the client of LW.1. The insurance period of the said vehicle is going to be completed, the Insurance Company i.e. Bajaj Allianz issued a letter of reminder to LW.2 on 22.03.2017 request to renew the insurance policy. Then LW.1 requested A-1 to return vehicle and

documents. A-1 instead of returning the vehicle, promised the LW.1 that he will pay the insurance amount and get the policy renewed as his compensation to use. Believing his words, LW.1 sent Aadhar card of his mother through his Whatsapp No.9848053580 to enable A-1 for getting the insurance policy renewed on his mother's name. But, no such insurance policy was taken by A-1 to the motorcycle mentioned above, but in turn A-1 with an intention to cheat, handed over the vehicle to A-2.

5.3 LW.1 on coming to know the same, questioned A-1, for which, A-2 informed LW.1 that his friend LW.6 did not return the said amount of Rs.3,00,000/- to A-1, they will return the vehicle only after LW.6 repaying the entire amount. LW.1 met LW.6, LW.6 paid the amount of Rs.2,00,000/- in the month of June, 2017 in the present of LW.4, and requested A-1 to return the vehicle but A-1 specifically

informed that he will return the vehicle on receipt of balance amount of Rs.1,00,000/-. He has not issued any receipt towards the payment of the above said amount of Rs.2,00,000/-. After sometime, LW.1 on his routine check-up of e-challans on the said motorcycle, he found e-challan of Rs.135/- is due on the said vehicle. He has paid the same and also noticed that the vehicle was in front of SRK Foods Pvt. Ltd., Bonguluru and A3 was with the said vehicle. On enquiry, A-3 informed that A-1 has handed over the said vehicle and LW.1 tried to narrate how it went to the custody of A-1, but A-3 stated that he is aware of entire episode. Thereafter, on 19.08.2017 LW.1 came to know through online enquiry with RTA that the subject vehicle was transferred in the name of LW.10, owner of SRK Foods Pvt. Ltd., to whom A-1 is also a legal advisor and also with whom A-3 is working. On enquiry with LW.10, he informed that A-1 has forced him to purchase the said vehicle stating that it is his

sister's bike and A-1 brought the concerned documents i.e. Forms 29 & 30 stating that his sister has signed on those documents and transferred the vehicle in favour of LW.10 by taking the print of Aadhar Card of LW.2 dsent by LW.1 for renewal of policy and also forged the signatures of LW.2 on the concerned forms. Thus, he has transferred to LW.10 causing wrongful loss to LWs 1 and 2 for his monetary benefits with an intention to cheat and with active collusion of A2 and A3. Thus, A2 and A3 have committed the aforesaid offences.

6. Sri U.V. Suresh Kumar, learned party-in-person, would submit that the 2nd respondent has filed a complaint under Section 200 of Code of Criminal Procedure and learned Magistrate has referred the same to the Police Station, Vanasthalipura, under Section 156(3) of Code of Criminal Procedure, which is in gross violation of entire procedure laid down under Section 154 of Code of Criminal Procedure. In the

complaint filed under Section 200 of Code of Criminal Procedure, it is mentioned by 2nd respondent that he has made a written complaint to the Station House Officer, Police Station, Vanasthalipuram, on 20.08.2017 for taking necessary action, but they have not initiated any action for the reasons best known to them. He has also filed said copy of complaint under Section 200 of Code of Criminal Procedure. There is no mention in the said complaint filed under Section 200 of Code of Criminal Procedure about the other steps to be followed under section 156 of Code of Criminal Procedure and, therefore, the learned Magistrate without considering the said aspects, referred the said complaint to Police Station, Vanasthalipuram under Section 156(3) of Code of Criminal Procedure. Thus, the entire procedure is violated. In the complaint filed under Section 200 of Code of Criminal Procedure, it is also mentioned by the 2nd respondent that since Station House Officer, Police

Station Vanasthalipuram, has not acted upon his complaint, the same was represented to Assistant Commissioner of Police, Vanasthalipuram, on 25.08.2017 and Deputy Commissioner of Police, LB Nagar Zone, on 25.08.2017 itself. The complaint was also given to Commissioner of Police on 28.08.2017 and also the Home Minister, which was referred to Deputy Commissioner of Police, L.B. Nagar Zone, on 29.08.2017. Thus, the 2nd respondent has not followed the procedure laid down under Section 154 of Code of Criminal Procedure and learned Magistrate without considering the same, referred the complaint to Station House Officer, Police Station, Vanasthalipuram, who in turn registered the same crime. The said procedure is also violated by the learned Magistrate, and he relied upon the principle laid down by the Hon'ble Apex court reported in AIR 2008 SC 907.

6.1 He would further submit that he filed a complaint under Section 200 of Code of Criminal Procedure and the learned Magistrate has referred the same to the very same Police Station, Vanasthalipuram, who in turn registered a case in Crime No. 802 of 2016. On completion of investigation, the Investigating Officer has laid charge sheet against the de facto complainant and another for the offence under Section 379 IPC.

6.2 He would further submit that he has filed another complaint under Section 200 of Code of Criminal Procedure and learned Magistrate has referred the same under Section 156(3) of Code of Criminal Procedure to Police Station Vanasthalipuram, who in turn registered a case in Crime No.636 of 2017 against the 2nd respondent and others for the offences under Sections 420, 468, 471, 379, 506,, 182, 191, 211 r/w Section 32 of IPC. On completion of investigation, the Investigating Officer has closed the

same referring the same as lack of evidence. Therefore, the petitioner herein had filed a protest petition and the same is posted for consideration.

7. According to the learned party-in-person, the 2nd respondent is his junior, who committed theft of his vehicle, as a counter blast to the complaint registered against him; he has implicated the petitioner herein in the above said false case. The contents of the charge sheet lack ingredients of offences alleged against him. The 2nd respondent has implicated A-2, his brother-in-law, and A-3, an employee of LW.10. He would further submit that the Investigating Officer in Crime No.340 of 2018 has not conducted investigation properly and he has laid charge sheet against the petitioner herein and other accused, and the Investigating Officer has not conducted investigation in Crime No.802 of 2016 in which the petitioner herein is a complainant. Therefore, the said fact was brought to the notice of higher ups i.e. Commissioner of Police,

Assistant Commissioner of Police, Vanasthalipuram etc.,

8. The petitioner herein has also filed W.P. No. 21860 of 2016 against the 2nd respondent, Investigating Officer etc., seeking to issue Writ, order, or direction more particularly one in the nature of Writ of Certiorari Calling for Records in Connection with Charge Sheet dated 02.10.2020 vide C.C.No.994 of 2020 of Police Station Vanasthalipuram declaring the investigation conducted by the Respondent No.4 in the said matter as defective, perfunctory, arbitrary, illegal, violative of the provisions of Code of Criminal Procedure, and consequently direct the respondent No.3 to submit a report on petitioner's complaint dated 16.02.2021 by furnishing the details of action taken if any by the respondent no. 2 on the said report submitted by the respondent no. 3 against respondent no. 4. In the said writ petition, the Assistant Commissioner of Police, Vanasthalipuram had filed

counter stating that on the complaint received by the petitioner herein, the 2nd respondent requested the 3rd respondent to conduct enquiry and for taking necessary action. Accordingly, respondent No.3 has conducted enquiry into the matter and reported the matter to 2nd respondent. the 2nd respondent on examination of the said report and enquiry, revealed that the Investigating Officer i.e. K. Venkat Reddy, S.I. of Police, Police Station Vanasthalipuram, being Investigating Officer, did not conduct investigation properly in Crime No.340 of 2018 for the aforesaid offences, which clearly shows his gross negligence and dereliction towards investigation. It was further revealed that the Investigating Officer without collecting proper evidence in Crime No.340 of 2018, filed charge sheet without application of mind and caused embarrassment and mental agony to the innocents by falsely implicating them while investigating the case, which is highly objectionable

causing violation of Rule 3(1 to 3) of TCS Conduct Rules 1964. In the said counter it is further stated that the Investigating Officer has not conducted investigation to prove the accusation against the accused persons in Crime No.340 of 2018 beyond all reasonable doubt. As such, the Commissioner of Police, framed charges against the S.I. of Police, P.S. Vanasthalipuram/Investigating Officer. With the said submissions, he sought quash proceedings in C.C. No.994 of 2020.

9. Whereas the learned Public Prosecutor on instructions would submit that prima facie there are serious allegations against the petitioner herein and other accused. The same constitute offences alleged against the petitioner herein. The defences taken by the petitioner cannot be considered in a petition under section 482 of Code of Criminal Procedure and the petitioner has to take the said defences before the trial

Court during trial. It is for the trial Court to consider the same.

10. Learned Counsel appearing for the 2nd respondent also would submit that there are specific allegations against the petitioner herein. In the present proceedings the petitioner has to face the trial and prove his innocence instead of proving the same, the petitioner herein has filed the present petition to quash the C.C. No.994 of 2020.

11. In view of the above said submissions, it is relevant to note that there is no dispute that the petitioner herein is a practicing advocate. The 2nd respondent/de facto complainant/LW.1 is his junior colleague. LW.7 is also a junior colleague. LW.4 is a clerk working in the office of A-1/petitioner herein. Prima facie there are specific allegations against the petitioner herein. He has requested LW.1 and LW.7 to introduce their friends who are in need of money.

Accordingly, LW.1 has introduced LW.6, who was in need of money. A-1 has given hand loan of Rs.3,00,000/- on interest @ Rs.3/- per month. He has also obtained a blank signed cheque, promissory note etc., LW.6 has not repaid the said amount to petitioner herein. Therefore, according to the prosecution, since LW.1 has introduced LW.6, he has tried to bring pressure on LW.1 so that LW.6 will repay the said amount. However, LW.6, has paid an amount of Rs.2,00,000/-.

12. According to LW.1, the petitioner herein has requested him to send water can on his motorcycle. Since LW.1 was pre-occupied, he has requested his brother LW.3 to send water can on his motorcycle. The said version of LWs 1 and 3 was corroborated with the version of LW.4, office clerk of A-1. LW.3 has taken the said water can on the above said motorcycle which is in the name of his mother i.e. LW.2 and

handed over the same to the petitioner herein. The Investigating Officer has also recorded the statements of the above said witnesses. There is specific allegation against the petitioner herein that he has not returned the said above said vehicle. On the other hand, he has transferred the vehicle in the name of LW.10 by forging the signature of LW.2. The manner in which he has obtained Aadhar card is also specifically mentioned. The mobile number through which Aadhar card obtained was also specifically mentioned. The Investigating Officer has recorded the statement of B. Suresh Kumar, client of LW.1, as LW.9 and also LW.10, the owner of SRK Foods Pvt. Ltd., Bonguluru, on whose name the said vehicle was transferred.

13. Thus, prima facie there are specific allegations against the petitioner herein. Therefore, the defence taken by the petitioner cannot be considered in a petition filed under Section 482 of

Code of Criminal Procedure. The said principle was also held by the Apex Court in **Kamal Shivaji Pokarnekar v. The State of Maharashtra**[1], wherein the Apex Court has categorically held that quashing criminal proceedings was called for only in a case where complaint did not disclose any offence, or was frivolous, vexatious, or oppressive. If allegations set out in complaint did not constitute offence of which cognizance had been taken by Magistrate, it was open to the High Court to quash the same. It was not necessary that, a meticulous analysis of case should be done before trial to find out whether the case would end in conviction or acquittal. If it appeared on a reading of the complaint and consideration of allegations therein, in light of the statement made on oath that the ingredients of the offence are disclosed, there would be no justification for the High Court to interfere. The defences that might be available, or

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[1] AIR 2019 SC 847

facts/aspects which when established during trial, might lead to acquittal, were not grounds for quashing a complaint at the threshold. At that stage, the only relevant question was whether averments in the complaint spell out ingredients of a criminal offence or not. The Court has to consider whether complaint discloses any *prima facie* offences that were alleged against the respondents. Correctness or otherwise of the said allegations has to be decided only during trial. At the initial stage of issuance of process, it was not open to Courts to stifle proceedings by entering into merits of the contentions made on behalf of the accused. Criminal complaints could not be quashed only on the ground that, allegations made therein appear to be of a civil nature. If ingredients of offence alleged against Accused were *prima facie* made out in complaint, criminal proceeding shall not be interdicted.

14. In view of the same, the above said contentions of learned party-in-person are not

sustainable. He has placed reliance on the principle laid down in a judgment reported in (2019)14 Supreme Court Cases 207 in Vikram Johar Vs. State of Uttar Pradesh and another. It is a case where the Hon'ble Apex Court has considered the scope and ambit of discharge application and on examination of facts therein, the Apex Court held that prosecution of a Surveyor of an Insurance Company for having given an adverse report against the complainant is an abuse of process of Court. Therefore, the facts in the said case are different from the facts in the present case. He has placed reliance on the principle laid down in a judgment reported in Criminal Petition No.5745 of 2010 dt. 14.09.2012. Wherein this Court considered the scope and ambit of powers of High Court under Section 482 of Code of Criminal Procedure and on examination of said facts of the case, the Court has quashed the proceedings in C.C. therein against the

petitioner therein. Whereas in the present case, the facts are different to the facts of the said case.

15. As discussed supra, there are prima facie specific allegations against the petitioner herein. The petitioner herein is a practicing advocate, senior to LW.1 and LW.7, and requested LW.1 his junior colleague to get water can on his two wheeler on the ground that his car got punctured. The said statement of LW.1 is supported by LW.3, brother of LW.1 and also LW.4 office clerk of petitioner herein/A1. Legal profession is a noble profession. The petitioner being a senior to LW.1, cannot instruct or request his junior colleague to get water can on his vehicle. However, he has requested LW.1 to get water can; expressing his inability, LW.1 requested LW.3, his brother, to take water can on the above said vehicle. The manner in which vehicle was kept with the petitioner herein/A1, obtaining of Aadhar card of LW.2 and transferring the said vehicle in favour of LW.10 is also specifically

mentioned. The modus operandi adopted by the petitioner herein is also specifically mentioned.

16. It is also relevant to note that there is specific allegation against the petitioner about his practice of lending money to clients on interest and he is using his colleagues including LW.1 and LW.7 for the said purpose and also collecting interest. There is also specific allegation against the petitioner herein that he has been filing cases against his clients, debtors etc., The petitioner herein had filed a petition under Section 482 of Code of Criminal Procedure vide Criminal Petition No.1871 of 2021 seeking to quash the proceedings in C.C.No.1019 of 2020 of Police Station Vanasthalipuram. In the said C.C., the allegation against the petition herein is that, he has lent an amount of Rs.50,00,000/- by obtaining immovable property as surety and by way of execution of AGPA and registered sale deed.

17. In view of the above said discussion, since the allegation levelled against the petitioner herein are specific and the same constitute the above said offences against the petitioner herein, this Court is not inclined to quash the proceedings in C.C. No.994 of 2020 against the petitioner herein. The defence taken by the petitioner herein cannot be considered in a petition filed under Section 482 of Code of Criminal Procedure.

18. The Hon'ble Apex Court in **Skoda Auto Volkswagen India Private Limited v. The State of Uttar Pradesh**[2], the Apex Court referring to the earlier judgments rendered by it has categorically held that the High Courts in exercise of its inherent powers under Section - 482 of Cr.P.C has to quash the proceedings in criminal cases in rarest of rare cases with extreme caution. Viewed from any angle, this petition is not maintainable and liable to be dismissed.

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[2]. AIR 2021 SC 931

19. In the result, the Criminal Petition is dismissed.

20. As a sequel, Miscellaneous petitions, pending if any in this Criminal Petition, shall stand closed.

SD/-K.SAILESHI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The XXIV Metropolitan Magistrate, Hayatnagar, Ranga Reddy District.
2. The Station House Officer, Vanasthalipuram Police Station, Rachakonda.
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana, at Hyderabad [OUT]
4. U.V. Suresh Kumar, S/o. Late V.H. Rao, Occ. Advocate, R/o. Plot No. 32, B. N. Reddy Colony, Vanasthalipuram, Hyderabad-70
5. One CC to M/s V. Yadu Krishna Sainath, Advocate [OPUC]
6. Two CD Copies
7. One Spare Copy

MMK
gbr

HIGH COURT

DATED: 06/06/2022

ORDER

CRLP.No.9867 of 2021

DISMISSING THE CRIMINAL PETITION