APHC010180312022

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction) **[3396]**

THURSDAY, THE SECOND DAY OF JANUARY

TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION NO: 2956/2022

Between:

YALAMATI RAMA SUBRAHMANYAM,, S/O RADHA KRISHNA, AGED ABOUT 37 YEARS, R/O D.NO.3-4, MAIN ROAD, PEDDANUTULU VILLAGE, CHOPPAKONDA PANCHAYATH, DEVIPATNAM MANDAL, RAJAMAHENDRAVARAM, EAST GODAVARI DISTRICT, ANDHRA PRADESH.

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, THROUGH SHO, DEVIPATNAM P.S., EAST GODAVARI DISTRICT., REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH AT AMARAVATI.
2. BELLAM PRARAMJYOTHI, W/O HARINATH BABU, AGED ABOUT 29 YEARS, R/O PEDDANUTULU VILLAGE, DEVIPATNAM MANDAL, RAJAMAHENDRAVARAM, EAST GODAVARI DISTRICT, ANDHRA PRADESH.

...RESPONDENT/COMPLAINANT(S):

Counsel for the Petitioner/accused:

1. SASANKA BHUVANAGIRI

Counsel for the Respondent/complainant(S):

1. PUBLIC PROSECUTOR (AP)

The Court made the following:

ORDER:

The instant petition under Section 482 of the Code of Criminal Procedure, 1973[1] has been filed by the Petitioner/Accused, seeking quashment of the proceedings against him in SCST S.C.No.21 of 2022 on the

[1] in short 'Cr.P.C.'

file of the Court of Special Judge for trial of cases under SCs & STs (PoA) Act-cum-X Additional District & Sessions Judge, Rajamahendravaram for the offences under Sections 506, 509 of Indian Penal Code, 1860[2] and Section 3 (2) (va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015[3].

2. Heard Sri Sasanka Bhuvanagiri, learned counsel for the Petitioner and Ms.K.Priyanka Lakshmi, learned Assistant Public Prosecutor for Respondent No.1/State. Though notice was sent to Respondent No.2, none appeared on her behalf.

3. Learned counsel for the Petitioner would submit that the contents of the complaint as well as the charge sheet do not disclose the alleged offences against the Petitioner. Learned counsel would further submit that the date of alleged incident is 01.03.2020, whereas, the complaint was lodged on 27.03.2020 and hence, there is a huge delay in lodging the complaint. Learned counsel would further submit that, in view of the disputes between the parties with regard to a landed property, a false case has been registered against the Petitioner. Therefore, continuation of proceedings against the Petitioner is an abuse of process of law. Hence, prayed for quashment of the proceedings against the Petitioner.

4. Learned Assistant Public Prosecutor opposed the petition and would submit that there are specific allegations against the Petitioner which would attract the alleged offence and the truth or otherwise of the said allegations

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[2] in short 'I.P.C.'
[3] in short 'SCST Act'

has to be revealed during trial. There are no tenable grounds to quash the proceedings against the Petitioner, at this stage. Hence, prayed for dismissal of the Petition.

5. In reply, learned counsel for the Petitioner would submit that there is no whisper about the date and place of offence in the complaint, but the story was developed in the charge sheet.

Point for Determination

6. Having heard the submissions made by the learned counsel representing both parties and on perusal of the material available on record, the point for determination that arises in this case is as follows:

> *Whether the case against the Petitioner/Accused in SCST S.C.No.21 of 2022 on the file of the Court of Special Judge for trial of cases under SCs & STs (PoA) Act-cum-X Additional District & Sessions Judge, Rajamahendravaram, is liable to be quashed by exercising jurisdiction under Section 482 of the Cr.P.C.?*

7. A bare perusal of Section 482 makes it clear that the Code envisages that inherent powers of the High Court are not limited or affected so as to make orders as may be necessary; (i) t*o give effect to any order under the Code or, (ii) to prevent abuse of the process of any Court or, otherwise* (iii) *to secure ends of justice.* A court while sitting in Section 482 jurisdiction is not functioning as a court of appeal or a court of revision. It must exercise its powers to do real and substantial justice, depending on the facts and circumstances of the case. These powers must be invoked for compelling

reasons of abuse of process of law or glaring injustice, which are against sound principles of criminal jurisprudence.

8. In the case on hand, it is alleged in the complaint that, Respondent No.2 married one Bellam Harinadh Babu and they both were blessed with one male child and thereafter, in view of the disputes between them, they separated. Subsequently, Respondent No.2 joined with one Pragadha Prabhakar and they both have been living together and were blessed with two sons. Respondent No.2 has got land in Sy.No.20A 10/A /DRA in her village. Petitioner/Accused, who is a resident of Peddanutula Village came to their village and he used to supply Jaggery, Brandy and Arrack to other Villages and while manufacturing Arrack, he was caught by Devipatnam Police and also by Excise Police, Rampachodavaram. After releasing on bail, under the misconception that Respondent No.2 informed the Police about his activities, the Petitioner abused her in filthy language, and threatened that he would rape and kill her and also cut her into pieces and feed them to crows and vultures. As such, she lodged a complaint against the Petitioner based on which, a case in Crime No.20 of 2020 on the file of Devipatnam Police Station has been registered for the offence under Section 506 IPC and Section 3(2) (va) of SCST Act. The Police, after due investigation, filed charge sheet for the offences under Sections 506 and 509 IPC and Section 3(2) (va) of SCST Act. Aggrieved thereby, the present petition has been filed by the Petitioner seeking quashment of the same.

9. A bare perusal of the contents of the complaint as well as the charge sheet, would *prima facie* disclose that there are specific allegations against the Petitioner in the commission of the alleged offences. Though it is contended by the learned counsel for the Petitioner that there is no whisper about the date and place of offence, a perusal of the charge sheet, which was filed after investigation, would disclose that the alleged incident had occurred on 01.03.2020 at about 11.00 hours at the outskirts of Peddanutula Village. The other contention of the learned counsel for the Petitioner that there is a huge delay in lodging the complaint, may be raised by the Petitioner before the trial Court. Since there is verifiable material and factual aspects to be decided during evidence before the trial Court, at this stage, this Court cannot conduct a mini trial while deciding the petition filed under Section 482 Cr.P.C.

10. At this stage, it is relevant to refer to judgment in **Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and Others**[4], wherein, a three Judge Bench of the Hon'ble Apex Court laid down the following principles of law:-

> *"57. From the aforesaid decisions of this Court, right from the decision of the Privy Council in the case of Khawaja Nazir Ahmad (supra), the following principles of law emerge:*
> *i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences;*
> *ii) Courts would not thwart any investigation into the cognizable offences;*
> *iii) However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on;*

[4] 2021 SCC OnLine SC 315

iv) The power of quashing should be exercised sparingly with circumspection, in the 'rarest of rare cases'. (The rarest of rare cases standard in its application for quashing under Section 482 Cr.P.C. is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court);
v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;
vi) Criminal proceedings ought not to be scuttled at the initial stage;
vii) Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule;
viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognized to secure the ends of justice or prevent the above of the process by Section 482 Cr.P.C.
ix) The functions of the judiciary and the police are complementary, not overlapping;
x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;
xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;
xii) The first information report is not an encyclopedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;
xiii) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P.Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint; and
xv) When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR."

(emphasis supplied)

11. In view of the above discussion and the judgment referred to *supra,* this Court is of the view that the contentions raised by the learned counsel for the Petitioner are the aspects to be decided during trial. As there are specific allegations leveled against the Petitioner, this is not a proper stage to consider the genuineness of the said allegations. A petition filed under Section 482 Cr.P.C., cannot be decided based on presumptions and assumptions. This Court cannot rely on the merits of the case at this stage, as while exercising the jurisdiction under Section 482 of the Cr.P.C., this Court cannot conduct a mini trial and hence, the petition deserves dismissal.

12. Accordingly, without prejudice to the rights and contentions of the Petitioner, the Criminal Petition is dismissed.

Pending applications, if any, shall stand closed.

Dr.JUSTICE VENKATA JYOTHIRMAI PRATAPA

Date:02.01.2025
Dinesh

THE HONOURABLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

Crl.P.No.2956 of 2022

Dt.02.01.2025

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