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APHC010128972023

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3604]**
(Special Original Jurisdiction)

FRIDAY, THE 30th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

WRIT PETITION NO: 7733/2023

Between:

1. KALAPALA NAGALAKSHMI, W/O PRABHUDAS, AGE 44 YEARS, RESIDENT OF 41-1/14-540, RANIGARI THOTA, KRISHNA LANKA, VIJAYAWADA-520013, AADHAR NO.6127 0473 7884.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, , REP. BY ITS PRINCIPAL SECRETARY, HOME DEPARTMENT, SECRETARIAT BUILDING, VELAGAPUDI, AMARAVATI, GUNTUR DISTRICT.
2. THE DIRECTOR GENERAL OF POLICE, , MANGALAGIRI, GUNTUR DISTRICT.
3. THE COMMISSIONER OF POLICE, VIJAYAWADA, NTR DISTRICT, ANDHRA PRADESH.
4. THE STATION HOUSE OFFICER, , MACHAVARAM POLICE STATION, VIJAYAWADA, NTR DISTRICT.
5. CH PRAKASH, , SI OF POLICE, MACHAVARAM POLICE STATION, VIJAYAWADA. (INVESTIGATION OFFICER)
6. VALLETI VENKATA MOHAN KUMAR MOHAN KUMAR, S/O MADHUSUDANA RAO, AGE 50 YEARS, RESIDENT OF D. NO. 22-6-56, KRISHNA RAO NAIDU STREET, KOTHAPET, TENALI. (ACCUSED).

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to Issue a Writ of Mandamus or any other appropriate Writ or Writs, Order or Direction, to declare the highhanded, arbitrary, unlawful action of the Respondents No.4 and 5, in filing of the chargesheet without issuing any notice to the petitioner, regarding the Section deletion and Section adding in Crime No. 360 of 2022 on the file of the Machavaram Police Station, Vijayawada. and subsequently filing the Final report/chargesheet in CC No.5581/2022 on the file of the I Additional Metropolitan Magistrate, Vijayawada, without issuing any notice to the petitioner/complainant and without examining the eye-witnesses as mentioned in the Charge Sheet . as illegal, arbitrary and contrary to the provisions of Section 154 (2), 173 (2) (ii) of Criminal Procedure Code, 1973 and Article 14 of the Constitution of India and against the guidelines issued by Hon'ble Supreme Court in BHAGWANT SINGH Vs. COMMISSIONER OF POLICE and ANOTHER (1985) AIR (SC) 1285. and to set aside the Chargesheet and subsequent proceedings in CC No.5581/2022 on the file of the I Additional Metropolitan Magistrate, Vijayawada and subsequently direct the respondent no.3 to conduct the fresh investigation in Crime No. 360/2022 on the file of the Machavaram Police Station, Vijayawada as per the original complaint given by the petitioner and submit the chargesheet before the concerned Magistrate.

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondent no.3 to conduct departmental inquiry regarding the arbitrary and fraudulent action of the respondent no.5 and take necessary disciplinary action against the respondent no.5, who abused the legal proceedings

Counsel for the Petitioner:

1. HARANADHA RAJU KATTA

Counsel for the Respondent(S):

1. GP FOR HOME

The Court made the following:

HON'BLE SMT. JUSTICE SUNITHA GANDHAM

W.P. No. 7733 of 2023

ORDER:

This Writ Petition is filed by the petitioner/ defacto complainant to declare the action of respondent Nos.4 and 5 in altering the penal Sections in Crime No.360 of 2022 of Machavaram Police Station, Vijayawada, and in filing the charge sheet in C.C. No.5581 of 2022 on the file of the learned I Additional Chief Metropolitan Magistrate, Vijayawada, without prior notice to her, as illegal and arbitrary and consequently, to set aside the charge sheet and the consequential proceedings and to direct a fresh investigation on the basis of her original complaint.

2. The case of the petitioner is thus:

The petitioner was working as housekeeper at Hangover Brewery. On 8th August, 2022, she submitted a written complaint to the police alleging that the accused, who was one of the owners of the establishment, had sexually harassed her, touched her inappropriately, attempted to compel her to accede to his demands, abused her by referring to her caste, and ultimately removed her from employment. The police registered a case in Crime No.360 of 2022 for the offences under Sections 354 and 509 of the Indian Penal Code (hereinafter referred to as 'the Code'). Subsequently, without informing her and without obtaining her consent, the investigating officer deleted Section 354 of the Code and added Section 506 of the Code and filed a charge sheet only for the offences under Sections 506 and 509 of the Code. The investigating officer did not examine the eyewitnesses whose names were stated to have been furnished by her and that the charge sheet was filed in collusion with the accused. She relies

upon the judgment of the Hon'ble Supreme Court in ***Bhagwant Singh v. Commissioner of Police***[1].

3. The learned Assistant Government Pleader for Home filed written instructions of respondent No.5/ Sub-Inspector of Police in which it is denied the allegations of mala fides and manipulation and further contended that the report of the petitioner is registered, inspected the scene, examined the witnesses including L.Ws.2 to 4 and the statements disclosed allegations of abuse and threat but not the allegation of assault or sexual misconduct and on that basis, Section 354 of the Code was deleted and Section 509 of the Code was added. Further, a memo explaining the alteration of the sections was filed along with the charge sheet and that the learned Magistrate took cognizance of the offences under Sections 506 and 509 and registered as C.C. No.5581 of 2022 and thereafter, the accused pleaded guilty and accordingly, he is convicted and sentenced to pay fine of Rs.2,000/- vide order dated 12.11.2022.

4. Heard Sri K.Haranadha Raju, learned counsel for the petitioner and Sri Mallikarjun, learned Assistant Government Pleader for the official respondents. Perused the material placed on record.

5. The principal question for consideration is whether the alteration of the penal sections during investigation and the filing of a charge sheet for the offences ultimately found to be supported by the material collected during investigation are liable to be declared illegal merely because the complainant was not given prior notice of the proposed alteration, and whether the charge sheet and the proceedings before the criminal court can, on that ground, be set aside in exercise of the writ jurisdiction.

6. At the outset, it must be stated that registration of a crime under particular penal provisions does not create an indefeasible right in the informant to insist

[1] (1985) 2 SCC 537 : AIR 1985 SC 1285

that those provisions must necessarily be retained until the conclusion of the proceedings. The investigating officer is required to investigate the facts and collect relevant material, and to form an opinion on the offences, if any, disclosed by that material. The sections mentioned in the first information report may therefore be altered during investigation where the material collected warrants such a course. The final determination of the offences for which an accused is to be tried rests with the competent criminal court, which is not bound by the opinion of the investigating officer.

7. Section 173(2)(ii) of the Code of Criminal Procedure, 1973, requires the officer in charge of the police station to communicate, in the manner prescribed by the State Government, the action taken by him to the person, if any, by whom information relating to the commission of the offence was first given. This obligation is intended to keep the informant informed of the result of the investigation. However, neither the provision does state that prior consent of the informant is necessary before the investigating officer alters the Sections of law or submits a police report nor does every failure to communicate the action taken automatically render the investigation or the resulting charge sheet void. The legal effect of any such failure must be considered in the context of the nature of the report, the proceedings before the Magistrate and the prejudice, if any, demonstrated by the informant.

8. The decision in ***Bhagwant Singh*** (supra) does not support the petitioner's case to the extent claimed. The Hon'ble Supreme Court considered the procedure to be followed where, after investigation, the police submit a report stating that no offence appears to have been committed or that there is no sufficient ground for proceeding against the person named in the first information report, and the Magistrate proposes to accept such a report and drop the proceedings. In that situation, the informant must be given an opportunity of

being heard before the Magistrate accepts the report. The principle protects the informant from having the proceedings terminated behind their back.

9. The present case stands on a materially different footing. The police did not submit a closure report dropping the entire case. They filed charge sheet alleging offences under Sections 506 and 509 of the Code, and the learned Magistrate took cognizance of those offences. The rule in ***Bhagwant Singh*** (supra) cannot be extended to mean that an investigating officer must obtain the complainant's approval, or give prior notice, whenever the officer considers it appropriate to delete one penal provision and retain or add another on the basis of the investigation. The informant's right to be informed of the action taken must be distinguished from a right to control the course or outcome of the investigation.

10. As per the version of the learned counsel for the petitioner, eye witnesses mentioned by the petitioner are not examined, however, as per the learned Assistant Government Pleader, the investigating officer has examined the eye witnesses as L.Ws.1 to 4. The adequacy or otherwise of the investigation does not, by itself, establish that the charge sheet was fabricated or that the investigating officer acted in collusion with the accused. The petitioner has not placed material sufficient to establish such serious allegations and as such, in this writ petition, this Court cannot resolve the disputed factual issue merely on the competing assertions of the petitioner.

11. Other grievance of the petitioner is that on the same day of taking cognizance, the accused pleaded guilty and is convicted, after pleading guilty, and that she was not given an opportunity to place her objections before the Magistrate. The record discloses that having considered the material placed by the investigating officer, the learned Magistrate took cognizance of the offences under Sections 506 and 509 of the Code and further, the accused pleaded guilty

and accordingly, convicted of the said offences and imposed sentence stated supra vide judgment dated 12.11.2022. Any challenge to the legality of the conviction or to the procedure adopted by the criminal court must be pursued through the remedies available under the criminal law, subject to their maintainability and limitation. The present writ petition, which principally challenges the police action in altering the sections and filing the charge sheet, cannot be treated as a substitute for such proceedings or as an indirect appeal against the criminal court's judgment.

12. It is also relevant that the petitioner alleges that the investigation was incomplete and that material witnesses were not examined. The Code of Criminal Procedure provides appropriate remedies for an informant who seeks further investigation or wishes to bring relevant material to the notice of the competent criminal court. The availability and scope of any such remedy would depend upon the procedural stage and the facts of the case. The existence of those remedies does not foreclose the constitutional jurisdiction of this Court in an appropriate case; nevertheless, the extraordinary jurisdiction is not ordinarily exercised to direct a particular charge to be filed merely because the informant disagrees with the investigating officer's assessment of the evidence.

13. The allegations made by the petitioner are serious and deserve to be treated with due care. At the same time, the relief sought in this writ petition requires the Court to distinguish between a failure to communicate the action taken, an alleged defect in the investigation, and a legally sustainable ground for quashing a charge sheet or setting aside criminal proceedings. On the material presently placed before this Court, the petitioner has not established that the alteration of the Sections, by itself, vitiated the investigation or that the charge sheet and the consequential proceedings are liable to be set aside in the exercise of writ jurisdiction.

14. **In the result,** and for the foregoing reasons, this Writ Petition is dismissed. There shall be no order as to costs.

As a sequel thereto, pending miscellaneous petitions, if any, shall stand closed.

SUNITHA GANDHAM, J

Date:30.10.2026
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HON'BLE SMT. JUSTICE SUNITHA GANDHAM

W.P. No. 7733 of 2023

Date: .10.2026

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