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APHC010604802022

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

CRIMINAL PETITION NO: 8862/2022

Between:

1. JADA SRAVAN KUMAR, S/O J DASU AGED 42 YEARS, OCC ADVOCATE, R/O D NO 11-4 3, MOGALRAJ PURAM, LAVANYA APARTMENTS, VIJAYAWADA-520010.

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, REP BY ITS PUBLIC PROSECUTOR, HIGH COURT OF A.P.,AMARAVATI, GUNTUR DISTRICT., THROUGH SHO, POLAVARAM POLICE STATION, ELURU DIST, ANDHRA PRADESH.
2. SK HS VARA, S/O NOT KNOWN, ASST SUB-INSPECTOR OF POLICE, , GOVERNORPET POLICE STATION, VIJAYAWADA.

...RESPONDENT/COMPLAINANT(S):

Petition under Section 437/438/439/482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court pleased to quash the proceedings in CC No. 1003 of 2021 ON THE FILE OF THE III ADDL CHIEF METROPOLITIAN COURT VIJAYAWADA and pass

IA NO: 1 OF 2022

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to grant stay of all further proceedings in CC NO 1003 of 2021 ON THE FILE OF THE III ADDL CHIEF METROPOLITIAN COURT VIJAYAWADA NTR District, for the offences punishable U/s 143,341 269 and R/w 149 of IPC in FIR No.224/2020 of Governorpeta P.S. against the petitioner including the appearance of the Accused till the disposal of the Main Quash Petition in the interest of the justice and pass

Counsel for the Petitioner/accused:

1. KOTA KRISHNA DEEPTHI

Counsel for the Respondent/complainant(S):

1. PUBLIC PROSECUTOR (AP)

The Court made the following:

HON'BLE SMT. JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION No. 8862 OF 2022

ORDER:

This petition is filed by the petitioner/accused No.10 to quash the proceedings against him in C.C. No. 1003 of 2021 on the file of the III Additional Chief Metropolitan Magistrate, Vijayawada, for the offences punishable under Sections 143, 341 and 269 read with Section 149 of the Indian Penal Code, 1860 (herein after refer to the Code).

2. The petitioner contends that the allegations, even if accepted at face value, do not disclose the essential ingredients of the offences alleged. No specific act of wrongful restraint is attributed to the petitioner, no person is identified as having been prevented from proceeding in a direction in which that person had a right to proceed, and the material does not disclose the unlawful common object as required under Sections 141 and 143 of the Code. It is further contended that the charge sheet does not set out facts showing that the petitioner committed an unlawful or negligent act which he knew, or had reason to believe, was likely to spread a disease dangerous to life. The petitioner relies, inter alia, on ***Gadiraju Venkata Satya Subramanya Raju v. State of Andhra Pradesh***[1], and ***State of Haryana v. Bhajan Lal***[2].

3. The prosecution case, in brief, is that on 7th November 2020, the petitioner and nineteen others gathered near Lalitha Hotel, opposite to Thummalapalli Kalakshetram, Vijayawada raised slogans demanding justice and prevention of attacks on Dalits, the gathering obstructed vehicular and pedestrian traffic, did not comply with the police request to clear the road, and thereby violated the COVID-19 restrictions. Basing on the report of the Assistant Sub-Inspector of

[1] Crl.P. No.14289 of 2014, decided on 22-10-2019
[2] 1992 Supp (1) SCC 335

Police, a case in crime No.224/2020 was registered and after completion of investigation, the investigation officer laid charge sheet and the same is registered as C.C. No. 1003 of 2021 of the offences under Sections 143, 341 and 269 read with Section 149 of the Code.

4**.** Heard Ms.Kota Krishna Deepthi, learning counsel for the petitioner and Smt.K.Priyanka Lakshmi, learned Assistant Public Prosecutor. Perused petition, charge sheet and other material available on record including the judgments.

5. The point for consideration is whether the allegations in the final report and the material collected during investigation, taken at their face value, disclose the ingredients of the offences alleged against this petitioner and whether continuation of the proceedings would amount to an abuse of the process of Court.

6. The power under Section 482 Cr.P.C. is to be exercised sparingly and with caution. At this stage, the Court is not to conduct a trial, assess the credibility of witnesses, or decide disputed questions of fact. However, where the allegations and the material relied upon by the prosecution, even if accepted in their entirety, do not constitute the alleged offences, the Court may intervene to prevent abuse of process and to secure the ends of justice as held by the in the case of **Bhajan Lal** (supra). Further, in ***Mahmood Ali v. State of Uttar Pradesh***[3], it is emphasised that, where a proceeding is challenged as frivolous or vexatious, the Court must examine the allegations and surrounding material with due care, without converting the quash proceedings into a trial.

7. Section 143 IPC punishes membership of an unlawful assembly. Under Section 141 IPC, an assembly of five or more persons is an unlawful assembly only when its common object falls within one or more of the categories specified in that section. The number of persons assembled, by itself, is not sufficient and

[3] (2023) 15 SCC 741

mere raising of slogans or participation in a peaceful protest doesn't automatically establish an unlawful assembly. The prosecution material must disclose facts from which a common object of the kind specified in Section 141 can reasonably be inferred.

8. In the present case, the gathering raised slogans demanding justice and prevention of attacks on Dalits. That purpose, standing alone, is not one of the unlawful objects specified in Section 141 IPC. The charge sheet also refers generally to obstruction of traffic and non-compliance with police instructions. However, the material placed before this Court does not disclose sufficient particulars showing that the petitioner shared a common object to resist the execution of law, commit an offence, or achieve any other object enumerated in Section 141 IPC. The mere use of the expressions 'unlawful assembly' and 'common object' in the charge sheet cannot substitute for the factual ingredients of the offence. This conclusion is confined to the material in this case and does not mean that a protest or gathering can never become unlawful by reason of the conduct of its participants.

9. Section 341 IPC prescribes punishment for wrongful restraint. Section 339 IPC defines that only when the accused voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed is said to have wrongfully restrained that person. The prosecution must allege voluntary obstruction of a person so as to prevent that person from proceeding in a direction in which that person has a right to proceed. In the judgment relied upon by the petitioner in ***Gadiraju Venkata Satya Subramanya Raju*** (supra), having considered the facts of that case, coordinate bench of this Court held that the offence was not made out where neither the complaint nor the statements recorded during investigation disclosed that any person had been voluntarily restrained from proceeding in a direction in which that person had a right to proceed.

10. As culled out from the charge sheet and 161 statements of the witnesses who are mostly officials, there is absolutely no material to show that they were voluntarily restrained by the petitioner and others so as to prevent them from proceeding in any direction in which they have right to proceed. The alleged inconvenience to traffic, without the necessary factual foundation for wrongful restraint, does not by itself establish the ingredients of Sections 339 and 341 IPC against this petitioner.

11. Section 269 of the Code applies where a person unlawfully or negligently does an act which he knows or has reason to believe is likely to spread the infection of a disease dangerous to life. A general allegation that COVID-19 restrictions were violated is not suffice to attract the ingredients. As seen from the charge sheet, except mentioning that the petitioner and others violated COVID-19 rules, no sufficient particulars of the act or circumstances satisfying those ingredients as against this petitioner are produced.

12. Section 149 IPC does not create an independent offence in the absence of an unlawful assembly. It fixes constructive liability where an offence is committed by a member of an unlawful assembly in prosecution of its common object, or is an offence which the members knew was likely to be committed in prosecution of that object. Once the material fails to disclose the essential foundation of an unlawful assembly under Section 141 IPC, Section 149 cannot, by itself, cure that deficiency. In addition, the final report must disclose facts connecting the offence alleged with the common object or the members' knowledge of its likelihood. A general reference to Section 149 is not sufficient.

13. As rightly argued by the learned Assistant Public Prosecutor, while considering a petition under Section 482 Cr.P.C., the court should not insist that a separate overt act be attributed to every member of an unlawful assembly in every case. Membership and common object may be inferred from the conduct of

the assembly and the surrounding circumstances. Nevertheless, there must first be material disclosing an assembly whose common object falls within Section 141 IPC. As seen from the material placed before this court, that essential requirement is not sufficiently disclosed. The allegations of obstruction and violation of COVID-19 restrictions are stated in general terms and do not supply the missing ingredients of the offences alleged against the petitioner.

14. For the foregoing reasons, this court is of the considered view that even accepting the prosecution version as stated in the final report and the material referred to above, the essential ingredients of Sections 143, 341 and 269 read with Section 149 of the Code, are not disclosed against the petitioner and continuation of the proceedings would amount to an abuse of the process of Court.

15. **In the result,** this Criminal Petition is allowed, quashing the proceedings against the petitioner/Accused No. 10 alone in C.C. No. 1003 of 2021 on the file of the III Additional Chief Metropolitan Magistrate, Vijayawada, for the offences under Sections 143, 341 and 269 read with Section 149 of the Code. This order is confined to the petitioner and shall not, by itself, be treated as an adjudication of the case against any other accused who is not before this Court.

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

SUNITHA GANDHAM, J

30.10.2026
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