
(2012) 11 AP CK 0041
In the Andhra Pradesh High Court
Case No : Criminal P. No. 701 of 2012

Akena Brahmaiah

APPELLANT

Vs

State of Andhra Pradesh and Another

RESPONDENT

Date of Decision : 15-11-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 195, 195(1)(b)(i)
Penal Code, 1860 (IPC) — Section 190, 191, 193, 193, 194

Citation : (2013) 1 ALD(Cri) 165 : (2013) 2 ALT(Cri) 61

Hon'ble Judges : K.C. Bhanu, J

Bench : Single Bench

Advocate : S.R. Sanku and Kaviti Murli Krisna, for the Appellant; T.S.N. Murthy, for the Respondent No. 2, for the Respondent

Final Decision : Dismissed

Judgement

K.C. Bhanu, J.—This criminal petition is filed by the petitioner/accused to quash the FIR No. 72 of 2011 on the file of Parchur Police Station, Prakasam District, registered for the offences punishable under Sections 190, 191, 193, 196 and 200 IPC, arising out of a private complaint in CFR No. 2513 of 2011 on the file of the Court of Additional Munsif Magistrate, Parchur, Prakasam District. The allegations levelled by 2nd respondent/de facto complainant, against the petitioner are pertaining to his statements given on oath in MC No. 18 of 2007 on the file of the Court of Additional Munsif Magistrate, Parchur, Prakasam District in OS No. 36 of 2004. Therefore, having regard to the nature of Sections 190, 191, 193, 196 and 200 IPC alleging which the said private complaint was filed and that respective Courts themselves have to proceed against the petitioner, in view of bar u/s 195 Cr.P.C.

2. The 2nd respondent filed complaint before the Judicial First Class Magistrate, Parchur and same was referred for investigation, to Police, who registered a case for the offences punishable under Sections 190, 191, 193, 196 and 200 IPC. Insofar as Section 190 IPC is concerned, it deals with the threat of injury to

induce person to refrain from applying for protection to public servant. Section 190 IPC has no application to the facts and circumstances of the present case because the allegation is that the petitioner gave false evidence in OS No. 36 of 2004 and HMOP No. 258 of 2004 on the file of the Family Court, Vijayawada.

3. Insofar as Section 191 IPC is concerned, it only states the meaning of false evidence. Section 191 IPC by itself is not an offence and no sentence can be prescribed u/s 191 IPC.

4. Insofar as Sections 193, 196 and 200 IPC are concerned, admittedly the Court or any person authorized by Court has not referred the complaint u/s 195(1)(b) (i) of Code of Criminal Procedure, which reads as follows:

195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.--
(1) No Court shall take cognizance:

(a) (i)....

(ii)....

(iii)....

(b)(i) of any offence punishable under any of the following Sections of the Indian Penal Code (45 of 1860) namely, Sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court;

5. Except on the complaint in writing by that Court or of such officer of the Court, as the Court may authorize in this behalf or some other Court to which the Court is subordinate no one can institute a complaint. The Judicial First Class Magistrate Court, Parchur, Prakasam District, is not a subordinate Court to the Judge, Family Court, Vijayawada, where the petitioner originally gave alleged false evidence. Therefore, if in the opinion of the Court, if the Judge, Family Court, Vijayawada has reason to believe that the petitioner gave false evidence, then that Court has or any officer authorized by that Court in this case got power to lodge a complaint. The Court or any officer authorized by the Court has not sent the complaint. Therefore, taking cognizance by another Magistrate, who has no jurisdiction at all and in view of the bar u/s 195(1)(b)(i) of Cr.P.C., the continuation of proceedings is nothing but abuse of process of Court. Therefore, this petition is to be allowed. Accordingly, the criminal petition is allowed quashing the FIR No. 72 of 2011 of Parchur Police Station, Prakasam District. Miscellaneous petitions, if any pending in this criminal petition, shall stand closed.