
(2013) 12 AP CK 0027

In the Andhra Pradesh High Court

Case No : Criminal Petition No. 4404 of 2013

Ch. Srinivasa Rao

APPELLANT

Vs

State and Another

RESPONDENT

Date of Decision : 18-12-2013

Acts Referred:

Citation : (2014) 1 ALD(Cri) 749

Hon'ble Judges : R. Kantha Rao, J

Bench : Single Bench

Advocate : Polaki Venkatesh, for the Appellant;

Judgement

R. Kantha Rao, J.—This Criminal Petition is filed u/s 482 of Cr.P.C. to quash the proceedings in P.R.C. No. 27 of 2012 on the file of the Court of III Metropolitan Magistrate, Cyberabad, L.B. Nagar, Hyderabad in connection with Cr. No. 47/2011 of Uppal Police Station, Cyberabad, registered for the offences punishable u/s 3(i)(x) of SC & ST (POA) Act, 1989. The brief facts of the case, which is sought to be quashed, are as follows:

The petitioner was working as Controller of Administration (for short "COA") in National Geophysical Research Institute (for short NGRI), Uppal, Hyderabad. He retired from service on 30.06.2011. The second respondent/complainant is working as Section officer in Finance and Accounts wing of NGRI.

2. The incident allegedly took place on 24.01.2011. According to the complainant, at about 6.50 P.M., the petitioner met the complainant near the Notice Board of Extension Building of their office and picked up quarrel with her unnecessarily and abused her in her caste name as "Oh Mala Munda Nee Bathuku Entha, Mala Dana Nuvu Na Meeda Scheduled Caste Commission Ku Report Chestava, Nee Anthu Choostha". When the complainant asked the petitioner as to why he was abusing her unnecessarily, the petitioner again allegedly abused her as "Yeh Mala Lanje, Atla Matlada Vaddu Antava". With the aforesaid allegations, a report was lodged on 25.01.2011 with the Inspector of

Police Uppal Circle.

3. Basing on her report, a case in Crime No. 47 of 2011 was registered for the offence punishable u/s 3(i)(x) of SC & ST (Prevention of Atrocities) Act, 1989. The Assistant Commissioner of Police, Malkajgiri Division investigated into the case and filed a final report dated 25.01.2011 before the III Metropolitan Magistrate, L.B. Nagar, referring the case as "lack of evidence". Thereafter, the complainant filed a protest petition purportedly u/s 202 of Cr.P.C. before the learned III Metropolitan Magistrate at L.B. Nagar, Cyberabad. The learned Magistrate took cognizance of the offence and issued summons to the petitioner and posted the matter for the evidence of the complainant. The present Criminal Petition is filed to quash the entire proceedings in the said P.R.C.

4. For arriving at a decision whether the proceedings in the P.R.C. are liable to be quashed, it is necessary to refer the contents of the Final Report, wherein, the investigating officer stated the grounds, basing on which, he referred the case as "lack of evidence".

5. The investigating officer mentioned in the Final Report that the investigation conducted by him reveals that in July, 2010, the complainant had drawn excess amount of arrears of Rs. 46,422/-. On coming to know about the drawl of arrears in excess by the complainant, proceedings were initiated to recover the excess amount from the complainant in one or two installments. The complainant made a representation to the Director, NGRI on 21.09.2010 requesting him to recover the excess amount in 36 installments. The Administrative Officer recommended to recover the excess amount in 24 installments instead of 36 installments as requested by the complainant, but the petitioner who was the COA returned the representation of the complainant to the Administrative Officer with a note stating that "I would appreciate if you can support your suggestion by rule position". The Administrative Officer replied that there is no such rule position and it is only a submission to the competent authority for considering the request of the individual. Thereafter, an amount of Rs. 24,383/- was recovered from the salary of the complainant in the month of December, 2010 as against the excess arrears amount of Rs. 46,422/-. The complainant on enquiry came to know that the recovery was ordered in two installments contrary to the recommendation of the Administrative Officer for recovery in 24 installments. Being aggrieved, the complainant sent a report to the Director, NGRI alleging that the recovery of installments was ordered by the petitioner because the complainant belongs to Scheduled Caste. Ultimately, the amount was ordered to be recovered in 10 monthly installments.

6. Similarly, the petitioner called for the explanation of the complainant for not refunding the advance which she had taken towards LTC in the event of her inability to proceed on LTC and her failure to utilize the LTC advance for the purpose for which it was granted within the stipulated time. Thereafter, the petitioner directed the complainant to refund the entire amount of LTC advance together with penal interest as per LTC rules. The petitioner also advised the

complainant to contact the bank officials and settle her loan account immediately which was pending with the bank. For the aforesaid reasons, it is stated that the complainant used to threaten the petitioner simply by calling the SC/ST Commission over phone in the presence of the petitioner by giving indication that she was making a complaint against him.

7. Considering all these aspects, the investigating officer arrived at a conclusion that the complainant bore grudge against the petitioner and lodged a report with the Police Uppal with exaggerated facts and with a delay of more than 24 hours without mentioning any reason for the said delay. While referring the case, the investigating officer also expressed his view that the witnesses who were examined by him in the course of investigation did not support the version of the complainant. The complainant was unable to tell the names of the witnesses immediately to the investigating officer, but produced two witnesses belatedly after several days and the investigating officer did not place any reliance on those witnesses assuming that they were set up by the complainant.

8. It is submitted by the petitioner that after filing the protest petition, the complainant got issued a legal notice to the higher officials in the department just before the retirement of the petitioner, informing them about the pendency of the case against the petitioner and requesting them not to pay the retirement benefits to the petitioner. In response to the legal notice issued by the complainant, the CSIR Head Quarters sought a reply from the NGRI and NGRI in turn requested the standing counsel to ascertain information regarding the pendency of case against the petitioner.

9. The learned standing counsel sent a reply to the CSIR Head Quarters stating that P.R.C. No. 27 of 2012 was pending against the petitioner and also stated that the learned Magistrate would commit the case to the Court of Sessions. Basing on the reply sent by the standing counsel, the CSIR Head Quarters stopped releasing the retirement benefits of the petitioner.

10. It is further submitted by the petitioner that one Rupavani who happens to be the wife of one of the subordinate of the petitioner Mr. G. Prem Kumar lodged a report against the petitioner alleging that he abused her in the caste name, basing on which, a case was registered against him u/s 3(i)(x) of SC/ST (Prevention of Atrocities) Act, 1989 and the investigating officer referred the case as false. The complainant therein filed a protest petition, basing on which, cognizance was taken and the case was committed to the Court of Sessions and the case was tried as S.C. No. 208 of 2008 by the Special Judge for trial of offences under SC/ST (Prevention of Atrocities) Act-cum-Additional District and Sessions Judge, Cyberabad, LB Nagar, Hyderabad. The entire process went on for five long years and ultimately, the petitioner was acquitted on 05.09.2012.

11. The grievance of the petitioner is that as he was an up-right and sincere officer, he was subjected to victimization on false complaints filed under the SC & ST (Prevention of Atrocities) Act and now in view of the pendency of the present

case, the NGRI withheld his retirement benefits. According to him, the earlier case as well as the present case were filed against him in utter misuse of the provisions of SC & ST (Prevention of the Atrocities) Act and therefore, he sought to quash the entire proceedings in P.R.C. No. 27 of 2012 on the file of the III Metropolitan Magistrate, Cyberabad. L.B. Nagar, Hyderabad.

12. Time and again, the Apex Court held that power u/s 482 Cr.P.C. can be exercised in cases where criminal proceedings would result in serious miscarriage of justice or abuse of process of the Court. In *State of Haryana and others Vs. Ch. Bhajan Lal and others*, the Apex Court has laid down that the powers u/s 482 Cr.P.C. can be exercised to quash the criminal proceedings;

1) Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

2) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

and

3) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

13. Therefore, for the purpose of arriving at a conclusion as to whether a complaint or First Information Report can be quashed, this Court has to scrutinize the allegations made in the complaint or First Information Report with care and circumspection. The bare reading of the averments made in the complaint or First Information Report even constitute an offence, this Court has to scrutinize the material available on record to find out as to whether the allegations are so absurd and inherently improbable or whether the criminal proceeding is manifestly attended with mala fides.

14. If we examine the facts and circumstances of the present case, it would obviously appear that the complainant lodged the present complaint with an intention to wreak vengeance against the accused because of her enmity with the petitioner/accused. If this Court accepts the allegations made in the complaint at their face value and proceeds to decide the petition filed u/s 482 of Cr.P.C. without thoroughly scrutinizing the allegations, the very object of Section 482 of Cr.P.C. would be defeated. Though this Court is not supposed to embark upon a roving enquiry into the allegations made against the petitioner/accused, it has to necessarily scrutinize the allegations mentioned in the complaint to arrive at a conclusion whether the proceedings are liable to be quashed or not. The object of Prevention of Atrocities Act, 1989 is to prevent atrocities against members of Scheduled Caste and Scheduled Tribe. The provisions of the Act

however cannot be used as a weapon to settle personal scores against the members of non-scheduled caste or scheduled tribe or to settle the property dispute with them or to wreak vengeance. If such a course is allowed, the very object of the Act would be defeated. If the allegations made in the complaint in the present case are put to scrutiny, it is obvious that this complaint is lodged with a view to wreak vengeance against the petitioner/accused and if this kind of criminal proceedings are allowed to continue, it would result in miscarriage of justice, since the allegations made in the complaint are so absurd and they are inherently improbable.

15. In view of the above, I am of the opinion that the continuation of the proceedings against the petitioner/accused would be nothing, but an abuse of process of law. Hence, the proceedings are liable to be quashed against the petitioner herein.

16. In the result, the Criminal Petition is allowed and the proceedings against the petitioner herein in PRC. No. 27/2012 on the file of the learned III Metropolitan Magistrate, Cyberabad, L.B. Nagar, Hyderabad in connection with Cr. No. 47/2011 of Uppal Police Station, Cyberabad, registered for the offences punishable u/s 3(i)(x) of SC & ST (POA) Act, 1989 are hereby quashed. Pending miscellaneous petitions, if any, shall stand closed in consequence.