

**(2010) 04 AP CK 0079**

**In the Andhra Pradesh High Court**

**Case No : Criminal Petition No. 7928 of 2008**

E. Sudheer Reddy

APPELLANT

Vs

Manda Kondanna and State of A.P.

RESPONDENT

**Date of Decision : 30-04-2010**

**Acts Referred:**

Constitution of India, 1950 — Article 226  
Criminal Procedure Code, 1973 (CrPC) — Section 155(2), 156(1), 200, 482  
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —  
Section 3(1)

**Citation :** (2010) 2 ALD(Cri) 262 : (2010) CriLJ 4695 : (2011) 7 RCR(Criminal) 1809

**Hon'ble Judges :** B. Chandra Kumar, J

**Bench :** Single Bench

**Advocate :** C. Praveen Kumar, for the Appellant; M. Krishna Murthy and Public Prosecutor, for the Respondent

**Final Decision :** Dismissed

## Judgement

B. Chandra Kumar, J.—This petition, u/s 482 Cr.P.C. has been filed by the petitioner to quash the proceedings in P.R.C. No. 35 of 2008 on the file of the Judicial Magistrate of First Class, Wanaparthy, Mahaboobnagar District.

2. The petitioner herein is A2 in the said criminal case. He is the Managing Director of M/s. I.V.R.C.L Infrastructures and Projects Limited, Hyderabad. The brief facts of the case are as follows. The de facto complainant Manda Kondanna and 219 others were engaged by one Ravi Kumar Reddy of SKK Projects Limited for IVRCL Infra and Projects Limited Contractors to work at road works from Kustigi to Rona, Gadag District, Karnataka State. The allegation is that they worked for two seasons i.e., for 286 + 280 days and from morning 6.00 AM to 6.00 PM everyday. It is also their contention that the contractor agreed to pay minimum wages and over time wages, but however, at the end of the work the contractor sent them away without paying due wages. It appears that they have approached the authorities concerned and filed petitions for payment of wages.

After filing the petition before the Assistant Commissioner of Labour, Mahaboobnagar for payment of wages, both the accused are alleged to have called the complainant and other two workers namely T. Saha Devudu and Raju on 19.05.2008 at about 3.30 PM for talks with regard to issue of settlement of wages and accordingly the complainant and other two workers approached the accused at Hyderabad, where the accused seems to have offered to pay only Rs. 12,00,000/- towards full and final settlement of wages instead of Rs. 27,00,000/-. The complainant and other two workers did not agree for the same and the talks failed. The further case of the de facto complainant is that both the accused bore grudge against him and that on 21.05.2008 at about 6-00 PM both the accused with a criminal intention came to the house of the complainant situated at Kanimetta village, Kothakota Mandal, Mahaboobnagar District and beat him indiscriminately all over his body and abused him by touching his caste that "Madiga Kodukullara - Mameeda Kesulu Pedathara". Then a representation was given to the Chairman, State Commission for Scheduled Castes and Scheduled Tribes, Hyderabad on 22.05.2008. The complaint was forwarded to the District Collector, Mahaboobnagar District and to the Superintendent of Police, Mahaboobnagar District. Then the matter was referred to the Station House officer, Kothakota Police Station. The Police, Kothakota Police Station registered a case in Crime No. 94 of 2008 on 24.06.2008 against both the accused. However, after completing investigation, the police filed final report stating that the complaint is false. Then the complainant filed a complaint u/s 200 Cr.P.C. before the learned Judicial Magistrate of First Class, Wanaparthy, Mahaboobnagar District. The learned Magistrate recorded the sworn statements of the complainant and other witnesses and passed the impugned order not accepting the final report filed by the police and taking cognizance of the offence against A1 and A2 for the offence punishable u/s 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and issued process against A1 and A2. The petitioner herein is A2.

3. Sri C. Padmanabha Reddy, learned Senior Counsel, representing Sri C. Praveen Kumar, learned Counsel for the petitioner, submitted that admittedly on 22.05.2008 the complaint was given to the Chairman, State Commission for SCs and STs, Hyderabad, and in the said complaint there is no reference to the name of the petitioner herein. His further submission is that the date, time and place of the alleged offence have not been mentioned in the complaint given to the Chairman, State Commission for SCs and STs, Hyderabad, on 22.05.2008. It is also his submission that the petitioner being a Managing Director, in all probabilities, would not have gone to the village of the complainant which is at a distance of 200 KMs from his Headquarters and would not have abused the complainant. It is also his submission that a reading of the contents of the complaint go to show that there were talks between the accused and the complainant on 19.05.2008 at Hyderabad and this shows that the complainant knew the petitioner/A2 and when he knows the petitioner/A2 In all probabilities he would have mentioned the name of the petitioner in the complaint given on

22.05.2008. It is also his submission that where the allegations are inherently improbable and unbelievable the proceedings are to be quashed. He has also relied on a decision reported in State of Haryana and others Vs. Ch. Bhajan Lal and others, where in it was observed that 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. 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.

4. The learned Additional Public Prosecutor has supported the impugned orders.

5. The only point that arises for consideration is whether the impugned proceedings are liable to be quashed.

6. The guidelines for exercising the powers under Article 226 or u/s 482 Cr.P.C. enunciated by the apex Court, in the decision relied on by the learned Counsel for the petitioner, are as follows.

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 in the First Information Report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers u/s 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

4. Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated u/s 155(2) of the Code.

5. 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.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. 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.

7. It is settled law that the first information report need not contain all the details. Proceedings can be quashed in the cases in which the allegations made against the accused in the complaint or in the FIR do not constitute any offence, even though those allegations are taken at their face value and are accepted in their entirety. While exercising inherent powers there is no scope for appreciation of evidence or analyzing the statements of the witnesses. Whether there are any omissions or not, whether the statements are contradictory to one another or not, whether the allegations can be proved after completion of the trial or not cannot be looked into at this stage. It is also settled law that the documents filed by the accused also cannot be looked into at this stage. Therefore, the question of weighing the correctness and sufficiency of the evidence does not arise at this stage. The jurisdiction of the High Court does not embark upon any enquiry whether the allegations in the complaint are likely to be established by evidence or not. The High Court would be guided by the allegations made in the complaint or the charge sheet as the case may be and we will consider whether those allegations, in law, constitute or spell out any offence or not. Unless it appears that the continuation of the criminal proceedings will result in any abuse of process of Court the proceedings cannot be quashed.

8. In the light of the above settled legal position, whether this Court can analyze the statement of the complainant which is earliest report and can analyse the material placed before this Court at this stage. Of course, it may be a fact that the police, after completing their investigation, came to a conclusion that no case is made out or that the allegations are false. However, the learned Magistrate is not bound to accept the opinion of the police. The learned Magistrate has rightly recorded the statement of the de facto complainant and other witnesses and having gone through the statements of the witnesses and the complainant, taken cognizance of the offence and issued process. What we have to see at this stage is the contents of the complaint and the sworn statement of the de facto complainant but no other document. Of course, the contents of the complaint also go to show that the talks with regard to payment of wages failed on 19.05.2008 when the accused offered to pay only Rs. 12,00,000/- instead of Rs. 27,00,000/- to the complainant and to other 219 workers. When huge amount is involved and when the complainant and others have approached the Assistant Commissioner of Labour, Mahaboobnagar, the probability of occurring of incidents as alleged cannot be ruled out without appreciating the evidence. The contention of the learned Senior Counsel is that the second petitioner being the Managing Director would not have resorted to such acts. May be his contention is true, but basing on such contention, the proceedings cannot be quashed at this stage without appreciation of evidence. Unless the statements of the witnesses who have witnessed the occurrence and the statement of the Doctor who treated the complainant are appreciated in accordance with law no final opinion can be given at this stage. A perusal of the record would show that the complainant was not yielding to the pressure of the petitioner and he was going on approaching the

authorities such as the Assistant Commissioner of Labour, Chairman, State Commission for SCs and STs, Hyderabad, and other authorities and therefore, in all probabilities, the accused persons might have developed grudge against him. Therefore, it cannot be said that no incident as alleged by the complainant had taken place at this stage.

9. It is also submitted that the petitioner herein had entrusted the work to sub-contractor who is A1 and the petitioner had nothing to do with the same. The terms and conditions of the agreement between A1 and A2 have not been placed before this Court. It is not clear who had undertaken to pay the wages of the workers. It is not clear as to what transpired between A1 and A2 and the complainant when there was huge demand for the wages. The father of the Nation Mahatma Gandhi opined that the masters for whose sake the workers work day and night and produce wealth in this country should treat the workers as their children.

10. In view of the above discussion, I am of the view that there are no grounds to quash the proceedings.

11. Accordingly, the Criminal Petition is dismissed. Without being influenced by the views expressed above, the trial Court shall dispose of the matter.