
(2014) 08 AP CK 0038

In the Andhra Pradesh High Court

Case No : Criminal Petition No. 8226 of 2012

Ravada Thavitamma

APPELLANT

Vs

State of A.P.

RESPONDENT

Date of Decision : 05-08-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 167

Citation : (2015) 1 ALD(Cri) 565 : (2015) 3 ALT(Cri) 270 : (2014) 4 Crimes 147

Hon'ble Judges : S. Ravi Kumar, J

Bench : Single Bench

Judgement

S. Ravi Kumar, J.—This criminal petition is filed to quash proceedings in FIR No. 36 of 2012 of Ponduru PS, Srikakulam District for alleged offence punishable under Section 167 IPC.

2. Heard both sides.

3. Learned counsel for the petitioner would submit that on a reading of entire complaint, the ingredients of offence under Section 167 IPC are not applicable to the petitioner. It is submitted that these allegations would attract if this petitioner is a public servant, therefore the complaint is nothing but abuse of process of Court. It is submitted that the land in survey No. 71/17 of Gorinta Village, Ponduru Mandal, Srikakulam District stands in the name of petitioner's family, for that reason she is implicated only to harass her. It is submitted that the de facto complainant, who lodged the complaint, is in the habit of filing cases against Government servants and harassing them and after filing of this complaint into Court, he died and as on today he is no more.

4. Learned Public Prosecutor submitted that the matter is still under investigation.

5. I have perused the material papers filed along with quash petition.

6. Second respondent herein filed a private complaint before the Judicial

Magistrate of First Class, Rajam against eight accused and the petitioner is A-5. The offence alleged against the petitioner is under Section 167 IPC.

7. The main contention of learned counsel for the petitioner is the provisions under Section 167 IPC are not applicable to petitioner. To appreciate the contention of the petitioner, it is necessary to read Section 167 IPC, which reads as follows:

"167. Public servant framing an incorrect document with intent to cause injury: Whoever, being a public servant, and being, as [such public servant, charged with the preparation or translation of any document or electronic record, frames, prepares or translates that document or electronic record] in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

From a reading of the above provision, it is clear this offence is against the public servant who indulges in framing an incorrect document with intent to cause injury. Admittedly, the petitioner is not a public servant and she is only holder of pattadar pass book for some land in Gorantla Village. As rightly pointed out by learned counsel for petitioner, to attract the ingredients under Section 167 IPC, there must be material to show that the petitioner is entrusted with preparation of any document or translation of any document.

8. The petitioner being a private individual cannot be expected of entrusting the job of preparation of any document or translation of document. As rightly pointed out by learned counsel for petitioner, if the respondent is aggrieved with the patta granted in favour of the petitioner herein his remedy is to approach appropriate forum and challenge the same but he cannot adopt arm twist method of setting criminal law into motion.

9. The learned Magistrate while forwarding the complaint to the police without verifying as to the role of the petitioner in the alleged commission of offence mechanically forwarded the complaint for investigation. For these reasons, I feel that it is a fit case to invoke the powers under Section 482 Cr.P.C and to quash the proceedings.

10. For these reasons, the proceedings against the petitioner in Crime No. 36 of 2012 are hereby quashed. Accordingly, the Criminal Petition is allowed.

11. Miscellaneous petitions, if any, pending in this appeal, shall stand closed.