

APHC010566822024



**IN THE HIGH COURT OF ANDHRA
PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3365]

FRIDAY ,THE TENTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE JUSTICE DR V R K KRUPA SAGAR

CRIMINAL PETITION NO: 9109/2024

Between:

Chevireddy Bhaskar Reddy **...PETITIONER/ACCUSED**

AND

The State Of Andhra **...RESPONDENT/COMPLAINANT(S)**
Pradesh and Others

Counsel for the Petitioner/accused:

1. SRINIVASULA REDDY KOMMASANI

Counsel for the Respondent/complainant(S):

1. PUBLIC PROSECUTOR

2. ANAND KUMAR KOCHIRI

The Court made the following:

THE HON'BLE JUSTICE Dr. V.R.K.KRUPA SAGAR

CRIMINAL PETITION No.9109 OF 2024

ORDER:

This Criminal Petition, under Section 528 of B.N.S.S., is filed by the petitioner/accused No.2 seeking to quash Crime No.58 of 2024 of Yerravaripalem Police Station, Tirupati District, registered for the offences punishable under Sections 352, 351(2), 196(1), 61(2), 353(1) and 72(2) read with 3(5) of BNS and Section 67A of the Information Technology Act, 2000 and Section 23(1) of the Protection of Children from Sexual Offences Act, 2012 and Section 3(1)(z)(zc) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Respondent No.1 is the State. Respondent No.2 is the *de facto* complainant.

3. Sri P.Veera Reddy, the learned Senior Counsel being assisted by Sri Srinivasula Reddy Kommasani, the learned counsel for petitioner submitted arguments. Sri M.Lakshmi Narayana, the learned Public Prosecutor for respondent No.1-State submitted oral arguments and filed written arguments.

Sri Anand Kumar Kochiri, the learned counsel for respondent No.2 submitted arguments.

4. To appreciate facts and circumstances out of which Crime No.58 of 2024 has arisen a certain mention about F.I.R.No.54 of 2024 is required.

5. A statement made by a girl aged 15 years studying 10th Class was reduced into writing at 12:30 P.M. on 05.11.2024. Upon that F.I.R.No.54 of 2024 was registered at Yerravaripalem Police Station, Tirupati District for the offences punishable under Sections 115(2), 118(1), 123, 96, 74, 78, 351(2) and 79 of BNS and Section 11 read with Section 12 of the Protection of Children from Sexual Offences Act, 2012 (for short, 'the POCSO Act'). The substance of the allegation was that while the girl was coming from school to her home at about 4:00 P.M. on 04.11.2024 two males wearing masks forcibly took her away into bushes and forcibly attempted to make her to consume certain powder mixed liquid and with a folding knife caused injuries on her body and one of them held her tight and another one tied a tali around her neck and kicked her in her stomach. At about 6:30 P.M. the parents of the victim girl, during their search for her,

found her and enquired with her and took her to Government Hospital in Yellamanda Village. Thereafter the victim girl was shifted to Government Hospital, Tirupati.

6. In the above-referred incident that occurred on 04.11.2024 the alleged incident took place at 4:00 P.M. and she was rescued by her parents at 6:30 P.M. and was soon thereafter shifted to hospital. Recording of her statement took place at 12:30 P.M. on 05.11.2024 and F.I.R.No.54 of 2024 was registered at 14 hours/2 P.M. on 05.11.2024.

7. After the girl was admitted into hospital and before her statement was recorded and was registered as F.I.R., certain events took place which gave rise to registration of F.I.R.No.58 of 2024 with which we are now concerned with.

8. The father of the victim girl is the *de facto* complainant in F.I.R.No.58 of 2024. As per the contents of this written information of the *de facto* complainant, the alleged crime incident in F.I.R.No.58 of 2024 took place while the victim girl and her parents were in hospital on 04.11.2024. Since in the present case the petitioner seeks to quash this case against him there is a need to extract the F.I.R. The written information is printed in

Telugu language. It bears the date 23.11.2024. It was registered as F.I.R.No.58 of 2024 at 7:00 P.M. English translation of this F.I.R. is filed with the bail petition and the same reads as below:

“To

The SHO.

Yerravaripalem Police Station.

Tirupati District.

Sub: Complaint against YSRCP political party, their daily newspaper and social media accounts, for damaging our family honor and future of our daughter by spreading false propaganda that our minor daughter was raped on 04-11-2024.

Sir,

My name is Gollapalli Ramana @ Ramanaiah, age 48 years. S/o.late G. Mallaiah, R/o.Kothamadigapalli (v). Yelamanda Panchayat, Yerravaripalem Mandal, Tirupati District, Ph.9550770146. I am cultivation and eking out my livelihood. In the past, I went to Kuwait and worked there and returned to my village in the last September and residing with my family members. I belong to SC madiga caste. We have begotten one son and two daughters. My son and elder daughter were married. The younger daughter is studying 10th standard in ZP High School, Reddyvaripalli. Every morning she goes to school from home at 08-00 am and returns back home at 5.00 pm. On 04-11-2024 my daughter went to school at 08:00 am as usual. Though my daughter did not reach home even by 06.00 pm in the evening, so, I along with my wife went to

school in search of our daughter and while we were coming back, we found our daughter was lying in the middle of the trees near Tunika Banda with small injuries on her 2 arms, neck and abdomen. We took our daughter to the Primary Health Center of our village and while she was undergoing treatment, our Mandal YSRCP party convener named Devabatla Nagarjuna Reddy came to the primary health center with around 100 members of his party followers and entered to the room in a group. They stated that we are there for you and Chevireddy is on the way and will take care of everything. In the meantime, Sakshi media people came and enquired what had happened and they confused us as if they were helping us and disturbed the medical help. While Bhakarapet CI and Yerravaripalem SI came and trying to send them out, at around 7.30 pm, Chandragiri Ex MLA named Chevireddy Bhaskar Reddy came inside the primary health center with 10 of his followers. They come to me while undergoing treatment and without talking to me, he proclaimed that what will he say if this happened publish that rape had happened. I will take care of the money and proclaiming to their Sakshi media without asking me anything. Though I was trying to interrupt and say that nothing happened, without being heard to me, he stated that I will be there with you. In the meantime, Bhakarapeta CI came and sent them out saying that we will take action. Without taking my explanation and disturbed the medical help to my daughter and caused trouble to the nurses and others in the hospital and behaved in such a way and people to believe that something had happened which did not happen and tried to create negative impression against us and provoked

communal hatred between our caste elders and lead to caste discrimination. Despite of knowing that we belong to SC caste and our daughter is a minor, they spread bad propaganda by damaging our family reputation for their political advancement, they dragged our family on the road and spread gossips against us. The police shifted our daughter to Tirupati Government Maternity Hospital at around 12 o' clock that night for proper treatment. Even during the treatment, on the next day i.e. on 05-11-2024, while my daughter was in the hospital, my daughter said that she was not raped in any way in the presence of police and revenue officials. Many people belonging to the YSRCP political party thronged the Tirupati Maternity Hospital. On that day, they created it as a sensational news in Sakshi magazine and YSRCP official twitter that our daughter was raped, abused and molested in various ways, and made us down our head in front of the people and broadcasted the bad propaganda and caused us mental anguish to us. YSR party leaders came to the hospital and made false accusations that our daughter was raped without any official statement from the doctors and defamed us in front of the media because of the rivalry between their parties. I have seen many times in the past that they always write false articles for their political benefit if there is any trouble to anyone. Now these writings are written to destroy our lives. Unable to bear this, I had to tell the media that nothing had happened to our daughter and not tarnish our reputation unnecessarily. Even after the police arrested our caste man of our village for molesting our girl, YSRCP leaders and social media people who are witnesses, without even knowing what happened to us, for their selfish political

purposes. Knowing that we are SC caste persons and our daughter is a minor, they defamed our daughter in the name of our village, which contains above 1200 doors without even thinking about our future in the society. They repeatedly spreading the false propaganda that our daughter was raped and they incited us to be hated by all and as if suicide was our only refuge. So, I request to take legal action against all the above who are responsible for exposing my daughter's privacy by taking pictures of her in the hospital with tattered clothes and showing them in their newspapers and media without our knowledge, in the interest of justice.”

9. The petitioner herein was formerly Member of Legislative Assembly, Chandragiri of Tirupati District. It is not in dispute that he belonged to YSR Congress Party. In the petition the following grounds are urged:

- The petitioner is innocent. The present case is a false case. *Mala fidely* and for ulterior motives with baseless allegations this case is foisted.
- The allegations levelled are *ex facie* incorrect and they are created by the police so as to entangle the petitioner in this false criminal case and this case is created for political reasons.

- In the absence of necessary facts and ingredients to attract the registered offences the F.I.R. is untenable. Since it is an untenable F.I.R. created to harm reputation of the petitioner and to cause prejudice and irreparable loss to him it is unjust to allow the F.I.R. to stand making the petitioner to undergo process of criminal law.
- The petitioner never made any adverse comments and never revealed the identity of the victim girl. Only to rope in this petitioner by falsely obtaining the signature of the *de facto* complainant the F.I.R. was registered.
- On 01.12.2024 the *de facto* complainant himself made open statement in print and electronic media that nothing happened as alleged in Crime No.58 of 2024 and he himself disputed the contents of F.I.R.No.58 of 2024.
- The *de facto* complainant/respondent No.2 herein also filed Writ Petition No.28709 of 2024 stating that police have been harassing him to withdraw the statements he made on 01.12.2024.
- It is settled principle of law that no case shall be filed where the criminal proceedings are manifestly attended with *mala*

fides and where the proceedings are maliciously instituted suppressing real facts with an ulterior motive for coercing the accused to succumb to illegal demands and as a measure of arm-twist tactics.

- The registration of crime and investigation of it is abuse of process of Court and criminal justice administration as it only wanted to achieve wrongful purposes.

10. Learned Senior Counsel arguing on behalf of the petitioner emphasized that respondent No.2/*de facto* complainant is an illiterate which can be easily seen from the way his signature is seen on the printed written information and that the contents of it are not known to the *de facto* complainant and the police obtained the signature of him by misrepresenting the facts to him. It is further argued that the alleged crime incident occurred on 04.11.2024 and this F.I.R. was lodged long thereafter on 23.11.2024 but the printed F.I.R. in column No.8 mentions that there is no delay in lodging the F.I.R. There was no need or occasion for the petitioner to cause harm to the victim girl. Presence of the petitioner at the hospital was only to give assurance to victim girl and her family and to extend necessary help to them in prosecuting the real culprits. Petitioner did not

inform the press about identity or other particulars of the victim girl. Facts attributed in the F.I.R. against him are all false.

11. Learned counsel for respondent No.2/*de facto* complainant argued that the facts mentioned in F.I.R.No.58 of 2024 attributed to him as author of them are incorrect. Taking advantage of his innocence, the police took his signatures on blank white papers on 04.11.2024 telling him that they would use for recording Section 161 Cr.P.C. statements of him in Crime No.54 of 2024. Believing the words of police he had subscribed his signatures on blank white papers. The petitioner has come to hospital only to console his family members and express their solidarity. Facts attributed against the petitioner by the police using the petitioner's name are all incorrect and false. Finally, the learned counsel for respondent No.2/*de facto* complainant prays this Court to quash the case as prayed by the petitioner.

12. Thus, we have a case where the accuser and the accused in one voice say that the accusations made by the State as against the petitioner are all false.

13. Before adverting to the contentions raised by the State, it is to be recorded that on behalf of the petitioner as well as on behalf

of the State, the celebrated ruling of the Hon'ble Supreme Court of India in ***State of Haryana v. Bhajan Lal***¹ is cited. Therefore what was held by their Lordships in paragraph Nos.102 and 103 are required to be extracted here:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- (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.

¹ 1992 Supp (1) SCC 335

- (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 under Section 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 under Section 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.

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”

14. In the above ruling their Lordships stated that 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 the F.I.R. could be quashed. The present quash petition emphasizes this aspect of the matter. It is argued that the present political Government with a view to wreak vengeance against the petitioner who belonged to the opposition party maliciously instituted the case and therefore, it has to be quashed.

15. In the above referred ruling, their Lordships at paragraph No.138 brought forth the guiding caution that is to be observed by

the Court while considering such pleas. For benefit, paragraph No.138 reads as below:

“138. We feel that the following observation made by Krishna Iyer, J. in *State of Punjab v. Gurdial Singh* ((1980) 2 SCC 471) may be recapitulated in this connection, that being: (SCC p. 475, para 9)

"If the use of the power is for the fulfillment of a legitimate object the actuation or catalysation by malice is not legicidal"

16. The case of the State took cue from the theme laid down by their Lordships in the above referred paragraph. Prosecution also took strength in advancing its argument on the point that the State is entitled to rely on the complaint and the evidence collected in support of it and if the evidence collected in support of it indicates facts attracting crime, then F.I.R. cannot be quashed. It is argued that F.I.R. is not an encyclopedia and it may or may not disclose all the facts in detail relating to the offences and by the very purport of the facts and circumstances in which the present crime was committed may not have permitted the *de facto* complainant to observe all the facts and therefore, the petitioner praying to quash F.I.R. cannot be

accepted to and cited ***Neeharika Infrastructure Private Limited v. State of Maharashtra***².

17. One of the alleged offences is under Section 23 of the POCSO Act and it reads as below:

“23. Procedure for media.—(1) No person shall make any report or present comments on any child from any form of media or studio or photographic facilities without having complete and authentic information, which may have the effect of lowering his reputation or infringing upon his privacy.

(2) No reports in any media shall disclose, the identity of a child including his name, address, photograph, family details, school, neighbourhood or any other particulars which may lead to disclosure of identity of the child: Provided that for reasons to be recorded in writing, the Special Court, competent to try the case under the Act, may permit such disclosure, if in its opinion such disclosure is in the interest of the child.

(3) The publisher or owner of the media or studio or photographic facilities shall be jointly and severally liable for the acts and omissions of his employee.

(4) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be liable to be punished with imprisonment of either description for a period which

² (2021) 19 SCC 401

shall not be less than six months but which may extend to one year or with fine or with both.”

18. Learned Public Prosecutor appearing for the State referring to various parts of the case diary had shown to the Court the statements of various witnesses which include the statement of the *de facto* complainant/respondent No.2. That was recorded during the course of investigation.

19. Case diary produced contains photostat copies of news items published in the newspaper wherein mention is made that the victim girl was subjected to sexual offences. One of the paper clippings also contains the photographs, though blurred, of the victim girl. The fact that there were such photographs and news items is a fact that is not denied by anyone. According to prosecution, it is the statement of this petitioner that the girl was put to sexual offences that resulted in publication of such news items. While the girl was not victim of rape it came in press otherwise only because of acts of accused in F.I.R.No.58 of 2024.

20. Question as to whether this petitioner is responsible for such news items or he was instrumental in any way for such news items is a matter for investigation and not a matter for decision in

a quash petition. The statements of hospital staff which were recorded during investigation disclose that the victim girl was kept in the hospital in delivery room for medical examination. The crowd of individuals reached the girl and with great difficulty they were all sent out. What happened in the hospital was captured in the video and she saw the video and found in the crowd the present petitioner and others. The strong submission of the learned Public Prosecutor on behalf of the State is that there was conspiracy among many people which include the petitioner and as a consequence details of the victim girl and photographs of the girl gathered unwanted publicity. Any information allowing someone to geographically and personally identify the minor victim girl cannot be published as per law. The petitioner being one of the leaders of their party had total disregard for all that and by his acts the victim girl was further victimized. It is argued that any collusion or revival of cordiality between the *de facto* complainant and the petitioner is a matter of no concern to the State since the State is endowed with the duty to protect its citizens and see that the law is upheld.

21. In a quash petition there is no scope for any enquiry into the truth or falsehood of the allegations. Facts as available on

record shall be considered to find out whether they disclose commission of all or any of the alleged offences. If the facts available *prima facie* disclose commission of offence, such proceedings cannot be quashed.

22. The allegation seen in the F.I.R. is that this petitioner without gaining the truth of the facts from the parents or the doctor took for himself and started telling that the girl was raped. As per the record, crowd of people including persons wielding cameras were there when this petitioner was in the hospital. This incident occurred earlier to registration of F.I.R.No.54 of 2024. A reading of F.I.R.No.54 of 2024 does not disclose any fact such as rape. In such circumstances the attributed conduct falls within the conspectus of Section 23 of the POCSO Act.

23. According to the petitioner and *de facto* complainant, the petitioner did not make such statement. According to the State, now there is collusion between them. Thus, this is another aspect which is required to be investigated into. In a properly conducted investigation if the material collected shows that accused alleged in the crime did not really commit any crime, the investigation officer would normally file a report praying the

appropriate Court that there is no case for trial. However, this Court at this stage cannot be called upon to quash the case in such sensitive matters. Though both sides made serious arguments about the other penal provisions and whether the conduct alleged against the petitioner falls within anyone of those provisions any further discussion on it is not taken up since what is earlier stated is found sufficient to dispose of this petition.

24. For the above reasons this Court is unable to accede to the prayer made in the petition.

25. In the result, this Criminal Petition is dismissed.

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

Dr. V.R.K.KRUPA SAGAR, J

Date: 10.01.2025
lvd

THE HON'BLE JUSTICE Dr. V.R.K.KRUPA SAGAR

CRIMINAL PETITION No.9109 OF 2024

Date: 10.01.2025

lvd