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IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

FRIDAY, THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY ONE



PRESENT

THE HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

CRIMINAL PETITION NO: 4964 OF 2021

Between:

Bandi Parasuramudu, @ Bandi Parushuramudu, S/o. B. Musalanna Aged 39 years,
Occ. Business R/o.B. Yaleru Village, Atmakur Mandal, Anantapur District.

...PETITIONER/ACCUSED A-9

AND

1. The State of Andhra Pradesh, (Through SHO, Atmakur Police Station) Rep. by it's Public Prosecutor High Court of Andhra Pradesh
2. The Sub Inspector of Police (SHO), Atmakuru Police Station, Atmakur Anantapur District

...RESPONDENTS/COMPLAINANTS

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to Quash FIR No.45 of 2020 dated 17.03.2020 on the file of Atmakur Police Station, Anantapur District registered for the offence punishable U/s.107 Cr.P.C with regard to the petitioner / Accused A-9.

I.A. NO: 2 OF 2021

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to grant stay of all further proceedings in FIR No.45/2020 dated 17.03.2020 on the file of Atmakur Police Station, Anantapur District, registered for the offence punishable U/s.107 Cr.P.C, with regard to the petitioner/Accused A-9 pending disposal of the Criminal petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri K.M. KRISHNA REDDY, Advocate for the Petitioner and the Additional Public Prosecutor on behalf of the Respondents.

The Court made the following: ORDER

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THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

CRIMINAL PETITION No.4964 of 2021

ORDER:-

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") is filed seeking quash of F.I.R in Crime No.45 of 2020 of Atmakur Police Station, Anantapur District, registered under Section 107 Cr.P.C.

Heard learned counsel for the petitioner and learned Additional Public Prosecutor appearing for respondents 1 and 2.

It is a strange case where the 2nd respondent – Station House Officer of Atmakur Police Station registered F.I.R in Crime 45 of 2020 under Section 107 Cr.P.C.

Chapter VIII of Cr.P.C deals with security for keeping the peace and good behavior. It contains Sections 106 to 124. Section 107 thereof speaks that on receipt of information that any person is likely to commit breach of peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of peace or disturb the public tranquility, the Executive Magistrate, who is of opinion that there is sufficient ground for proceeding, he may require the said person to show cause as to why he should not be ordered to execute a bond for keeping the peace for such period, not exceeding one year, as the Magistrate may think fit in the facts and circumstances of the case. The Executive Magistrate is required to pass an order under Section 111 Cr.P.C in writing, setting forth the substance received by him and the amount of the bond to be executed etc. Thereafter, certain procedure is prescribed under Section 116 Cr.P.C to cause inquiry and

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ultimately an order is required to be passed under Section 117 Cr.P.C. Therefore, in the scheme of Cr.P.C, considering the object of the provisions enacted in Chapter VIII of Cr.P.C, it is now clear that the said proceedings are not penal in nature and are only preventive in nature, which are to be initiated to prevent possible breach of peace or disturbance of public tranquility. Therefore, it is not contemplated under law that an F.I.R is required to be registered to initiate the said proceedings. It is not an offence for which the F.I.R is to be registered.

A reading of Section 154 Cr.P.C makes it manifest that only when the information that is furnished to the police discloses commission of a cognizable offence, then only police are required to register an F.I.R under Section 154 Cr.P.C and investigate the case. Even in a case relating to non-cognizable offence, the police have to first obtain prior permission from the concerned Magistrate and register an F.I.R and then proceed according to law. So, basically the law contemplates registration of F.I.R only when the information discloses commission of a cognizable offence. The information relating to likelihood of committing breach of peace or disturbance of public tranquility does not relate to any commission of offence under any provision of Indian Penal Code. Therefore, no F.I.R for the proceedings relating to Section 107 Cr.P.C is required to be registered.

Oblivious of the said fundamental principles of law, to the utter surprise of this Court, the 2nd respondent - Station House Officer registered an F.I.R in the above Crime No.45 of 2020 under Section 107 Cr.P.C. The said registration of F.I.R under Section

107 Cr.P.C is *ex facie* illegal on the face of it and it is clearly unsustainable under law. So, it is liable to be quashed.

Before parting with the case, it needs a mention that this Court is coming across several cases where police in the State of Andhra Pradesh have been registering F.I.Rs. for the proceedings relating to Sections 107 and 145 Cr.P.C. Therefore, it is high time to give a necessary direction to the authorities at the helm of affairs to take steps to curb such practice of registering F.I.Rs under Sections 107 and 145 Cr.P.C. Therefore, the Director General of Police of State of Andhra Pradesh shall take necessary steps in this regard to instruct the Station House Officers of all Police Stations in the State that F.I.R cannot be registered for the proceedings under Sections 107 and 145 Cr.P.C.

In view of the above discussion, the Criminal Petition is allowed and the aforesaid F.I.R in Crime No.45 of 2020 of Atmakur Police Station, Anantapur District, registered under Section 107 Cr.P.C, is hereby quashed.

Miscellaneous petitions, if any pending, in the Criminal Petition, shall stand closed.

Sd/- K. TATA RAO
ASST. REGISTRAR

//TRUE COPY//

SECTION OFFICER

One Fair Copy to the Hon'ble Sri Justice CHEEKATI MANAVENDRANATH ROY
(for His Lordship's kind perusal)

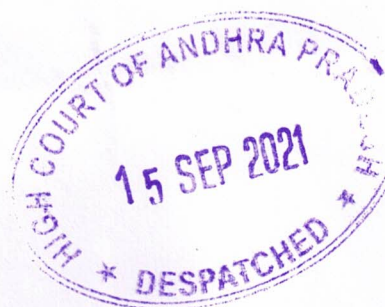
To,

1. The Director General of Police, Andhra Pradesh
2. The Station House Officer, Atmakur Police Station, Anantapur District.
3. One CC to SRI. K M KRISHNA REDDY Advocate [OPUC]
4. Two CCs to the PUBLIC PROSECUTOR, High Court Andhra Pradesh at Amaravati [OUT]
5. Eleven (11) L.R. Copies.
6. The Under Secretary, Union of India, Ministry of Law, Justice and Company Affairs, New Delhi.
7. The Secretary, Andhra Pradesh High Court Advocates' Association Library, High Court Buildings, Amaravarthi.
8. Two CD Copies

PGR
subj

HIGH COURT

DATED: 03/09/2021



ORDER

CRLP.No.4964 of 2021

**ALLOWING THE CRLP
WITHOUT COSTS**

21
15/9/21
VS