

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE J.SREENIVAS RAO**

+ WRIT PETITION No.34352 of 2015

% Dated 16.12.2024

Kum.Asifa Sulthana GC D/o Late

....Petitioners

VERSUS

\$ High Court of Judicature at Hyderabad, for the State of Telangana and the State of Andhra Pradesh, rep. by its Registrar (General) and others.

... Respondents

! Counsel for Petitioner : Sri N. Naveen Kumar,

^ Counsel for Respondent Nos.1 to 4: Sri Sri Pottigari Sridhar Reddy,
learned Special Government

Pleader

< GIST:

> HEAD NOTE:

? CITATIONS:

1. (1994) 4 SCC 687
2. 1995 SCC OnLine AP 518
3. (2023) SCC OnLine SC 951
4. 2021 SCC OnLine SC 154
5. 1992 Supp (1) SCC 335
6. (2008) 2 SCC 370

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THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J. SREENIVAS RAO

WRIT PETITION No.34352 of 2015

ORDER: *(Per the Hon'ble Sri Justice J. Sreenivas Rao)*

This writ petition has been filed by the petitioners seeking to quash the F.I.R. No.258 of 2015 on the file of Marredpally Police Station, Hyderabad City - Respondent No.4.

2. Heard Mr. N. Naveen Kumar, learned counsel for the petitioners, and Sri Pottigari Sridhar Reddy, learned Special Government Pleader appearing for respondent Nos.1 to 4. No representation on behalf of respondent No.5.

3. **Brief facts of case:**

3.1 Facts giving rise to filing of this writ petition briefly stated are that the petitioners were selected as Junior Civil Judges on 01.10.2013 and they were sent for training in the Judicial Academy at Secunderabad and Bangalore along with others pursuant to the proceedings issued by the erstwhile High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh. Accordingly, the petitioners have undergone training in the Judicial Academy from 28.08.2015 to 27.10.2015. When they were

undergone training at Karnataka Judicial Academy, Bangalore, respondent No.5 misbehaved with them due to happening of certain incidents in the room, where the petitioners and respondent No.5 were staying. Immediately, the petitioners have informed the same to the Assistant Director and Administrative Officer of the Andhra Pradesh Judicial Academy and submitted a written report to the Director, Judicial Academy on 05.10.2015 narrating the entire incident that was happened in the intervening night of 30.09.2015/01.10.2015 and the said complaint was forwarded to the erstwhile High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh. On 10.10.2015 the writ petitioners came to know that respondent No.5 lodged a complaint against them before respondent No.4 on 09.10.2015 and basing on the said complaint, F.I.R. No. 258 of 2015 was registered under Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, (hereinafter called for brevity as 'the Act'). Hence, the petitioners have filed this writ petition.

Submissions of the learned counsel for the petitioners:

4.1 Learned counsel for the petitioners submitted that when the petitioners undergone training in the Judicial Academy from 28.08.2015 to 27.10.2015 at Secunderabad as well as Bangalore in Karnataka State, they gave report to the Director, Judicial Academy

on 05.10.2015 against respondent No.5 narrating the incident that was happened in the intervening night of 30.09.2015/01.10.2015 and basing upon the same, after conducting enquiry the Director of Andhra Pradesh Judicial Academy submitted a report to the Registrar (Vigilance), erstwhile High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh, Hyderabad. Respondent No.5 with a *malafide* intention to cover up her mistake, lodged a complaint with bald allegations against the petitioners as a counter blast, though they have not abused respondent No.5 in the name of her caste and the ingredients of Section 3(1) (x) of the Act does not attract.

4.2 He further submitted the petitioners were discharging their official duties by staying in the Judicial Academy. However, respondent No.4 without obtaining permission from the Hon'ble The Chief Justice, registered the F.I.R. No.258/2015 basing upon the complaint of respondent No.5, which is contrary to law.

4.3 In support of his contentions, he relied upon the following judgments:

i) Uttar Pradesh Judicial Officers Association vs. Union of India¹;

¹ (1994) 4 SCC 687

ii) **Indian Association of Lawyers, Nellore and another v. State of A.P. and others**²;

iii) **Mohammad Wajid and another v. State of U.P. and others**;³

iv) **Kapil Agarwal and others v. V.Sanjay Sharma and others**⁴;

Submissions of learned Special Government Pleader:

5. Learned Special Government Pleader submitted that basing on the complaint lodged by respondent No.5, respondent No.4 had registered the crime. Respondent No.5 specially stated in her complaint that the petitioners have abused her in the name of her caste and the petitioners are not entitled to quash the FIR.

Analysis:

6. This Court considered the rival submissions made by the respective parties and perused the material available on record. It is an undisputed fact that the petitioners and respondent No.5 were selected as Junior Civil Judges on 01.10.2013 along with others and they have undergone training in the Judicial Academy at Secunderabad and Karnataka Judicial Academy at Bangalore from

² 1995 SCC OnLine AP 518

³ (2023) SCC OnLine SC 951

⁴ 2021 SCC OnLine SC 154

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28.08.2015 to 27.10.2015. When the petitioners were undergoing training at Bangalore, an untoward incident was happened on the intervening night of 30.09.2015/01.10.2105. Thereafter, respondent No.5 misbehaved with the petitioners due to happening of certain incidents in the room, where the petitioners and respondent No.5 were staying. The petitioners informed the said incident to the concerned officers of the Judicial Academy. Subsequently, the petitioners have submitted a written report to the Director, Judicial Academy, Secunderabad on 05.10.2015. Later, respondent No.5 lodged a complaint before respondent No.4 alleging that the petitioners have abused her in the name of caste and used filthy language against her. Basing on the said complaint, respondent No.4 has registered F.I.R. No.258 of 2015.

7. From the additional material papers filed by the learned counsel for the petitioners, dated 29.11.2024, it reveals that the Director, Andhra Pradesh Judicial Academy, Secunderabad, submitted a report *vide* Dis.No.573/2015, dated 05.10.2015, to the Registrar (Vigilance), by enclosing the copies of the reports submitted by the Assistant Director and Administrative Officer of the Andhra Pradesh Judicial Academy, Secunderabad. It is relevant to extract the relevant portion of the report of the Assistant Director, which reads as follows:

“On 01.10.2015 all the trainee officer of AP Judicial Academy reached Karnataka Academy at 8.30 am. After

breakfast all the trainee officers have attended the class of Senior Faculty Member of the Karnataka Academy and went to visit High Court and City Civil Courts. During lunch time three trainee officers (Ms.Asifa Sultana, Ms.Lavanya Nalabolu and Ms.Reddy Prasanna Nandaluri) informed us about the incident happened in their room of the quarter at Koramangala on previous night. The said three officers and other trainee officers have narrated the incident. These three trainee officers were staying in a room in the allotted quarter. There are two other rooms in the same quarter. Female trainee officers were residing in the said two rooms of the same quarter. As per the narration I comprehend that on 30.09.2015 after the classes, Ms.Asifa Sultana, Ms.Lavanya Nalabolu and Ms.Reddy Prasanna Nandaluri went to the house of sister of Ms. Asifa Sultana for dinner. They came back to their quarter at Koramangala at 12.20 hours in the mid night. The main door of their flat was opened. The door of their room was bolted from inside. They have knocked the door. It was not opened immediately. After about few minutes Molothu Bujji opened the doors of the room from inside. After three trainee officers entered into their room Molothu Bujji informed to them that Kalyan Chakravarthy (a male trainee officer) was in the bath room. He came out from the bathroom. All the three female trainee officers shocked and questioned Molothu Bujji and Kalyan Chakravarthy about their presence in their room in their absence. Kalyan Chakravarty expressed sorry and left the room. At that time he wore shorts and T-shirt. He entered into the flat allotted to the female officers in the midnight. Three officers scolded Molothu Bujji for entering into their room in their absence. Ms.Molothu Bujji also raised voice and holds the hand of Ms.Asifa Sultana and pulled her. Ms.Asifa Sultana sustained scratch marks over her hand. It was found that the two remaining rooms in the same flat were bolted from outside restraining the officers. Ms.Lavanya Nalabolu opened the rooms and the other lady trainee officers came out from their rooms. On information over phone the male trainee officers Ch. Srinivasa Babu, A.Nagaraju came and pacified the disputes stating not to raise hue and cry as they were residing in the midst of other Karnataka Judicial offices, or else the reputation of A.P. Judiciary will be at stake. Ms.Molothu Bujji threatened Ms.Asifa Sultana, Ms.Lavanya Nalabolu and Ms.Reddy Prasanna Nandaluri that she will commit suicide by writing their names in her suicide note, if the said incident informed to the Academy or others.”

8. It further appears from the record that pursuant to report dated 05.10.2015 submitted by the Director, Andhra Pradesh Judicial Academy, Secunderabad, the Registrar (Vigilance) issued proceedings *vide* ROC No.1628/2015-Vigilance Cell, dated 12.10.2015, suspending respondent No.5 and Sri S.Kalyan Chakravarthy, Additional Junior Civil Judge, Punganur of Chittoor District, while exercising the powers conferred under sub-rule (1) of Rule 8 of the Andhra Pradesh Civil Services (CC & A) Rules, 1991, and initiated disciplinary proceedings against them. After receiving the Enquiry Report from the Enquiry Officer, the erstwhile High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh recommended the Government to impose major penalty of removal from service in the light of the gravity and seriousness of the charges held proved against respondent No.5 and Sri S.Kalyan Chakravarthy.

9. Pursuant to the said recommendation, the Government of Andhra Pradesh issued G.O.Ms.No.106, Home (Courts.A) Department dated 21.06.2017 imposing major penalty of removal from service upon respondent No.5 and Sri S.Kalyan Chakravarthy and the Registrar (Vigilance) *vide* proceedings ROC No.1628/2015-Vigilance Cell, dated 21.06.2017, communicated the removal order to respondent No.5 and Sri S.Kalyan Chakravarthy.

10. The specific contention of the petitioners is that respondent No.5 as a counter blast filed the complaint on 09.10.2015. As on that date, the Director of Andhra Pradesh Judicial Academy, Secunderbad, submitted a report to the Registrar (Vigilance) about the incident which was occurred on 30.09.2015/01.10.2015 against respondent No.5.

11. In **State of Haryana v. Bhajan Lal**⁵, the Hon'ble Supreme Court laid down the parameters for quashing the F.I.R. are:-

- “(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 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.

⁵ 1992 Supp (1) SCC 335

- (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."

12. In **Mohammad Wajid and another** (*supra*), the Hon'ble Supreme Court held as follows:

"It will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation.

In **Directorate of Revenue and another v. Mohammed Nisar Holia**⁶, this Court explicitly recognises the right to not to be disturbed without sufficient grounds as one of the underlying mandates of Article 21 of the Constitution. Thus, the requirement and need to balance the law

⁶ (2008) 2 SCC 370

enforcement power and protection of citizens from injustice and harassment must be maintained. It goes without saying that the State owes a duty to ensure that no crime goes unpunished but at the same time it also owes a duty to ensure that none of its subjects are unnecessarily harassed.”

13. In **Kapil Agarwal and others** (supra), the Hon’ble Supreme Court held as follows:

“As observed and held by this Court in catena of decisions, inherent jurisdiction under Section 482 Cr.P.C. and/or under Article 226 of the Constitution is designed to achieve salutary purpose that criminal proceedings ought not to be permitted to degenerate into weapon of harassment. When the Court is satisfied that criminal proceedings amount to an abuse of process of law or that it amounts to bringing pressure upon accused, in exercise of inherent powers, such proceedings can be quashed.”

14. It is pertinent to mention that respondent No.5 has lodged a complaint against the petitioners on 09.10.2015, subsequent to the report submitted by the Director, Andhra Pradesh Judicial Academy, Secunderabad, to the Registrar (Vigilance) basing upon the information/complaint of the petitioners and after conducting enquiry against respondent No.5 and Mr.S.Kalyan Chakravarthy. It clearly shows that respondent No.5 lodged a complaint against the petitioners maliciously as a counter blast and the same is clear abuse of process of law and the principle laid down in **State of Haryana** (supra) is squarely applicable to the present case.

15. It is already stated supra that basing upon the report submitted by the Director, A.P. Judicial Academy, Secunderabad, the erstwhile High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh initiated departmental proceedings against respondent No.5 and Sri S.Kalyan Chakravarthy and Enquiry Officer after conducting enquiry submitted report. Thereafter, the erstwhile High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh at Hyderabad has recommended the Government to impose major penalty of removal from service in the light of gravity and seriousness of the charges held proved against respondent No.5 and Sri S.Kalyan Chakravarthy. Accordingly, the Government of Andhra Pradesh after examining the matter, accepted the recommendation of the erstwhile High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh, issued G.O.Ms.No.106, Home (Courts.A) Department, dated 21.06.2017, and imposed punishment of removal from service against respondent No.5 and Sri S.Kalyan Chakravarthy and the Registrar (Vigilance) *vide* proceedings ROC No.1628/2015-Vigilance Cell, dated 21.06.2017 communicated the removal order to respondent No.5 and Sri S.Kalyan Chakravarthy.

16. For the foregoing reasons as well as the principles laid down in the above judgments (*supra*), the F.I.R.No.258 of 2015 on the file of Marredpally P.S., Hyderabad-Respondent No.4, is liable to be quashed.

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17. In the result, the writ petition is allowed and the proceedings in F.I.R. No.258 of 2015 on the file of Marredpally Police Station, Hyderabad, for the offence under Section 3(1)(x) of the SC/ST (POA) Act, 1989 against the petitioners are hereby quashed. No order as to costs.

Miscellaneous petitions, pending if any, shall stand closed.

ALOK ARADHE, CJ

J. SREENIVAS RAO, J

Date:16.12.2024

Note: L.R. copy to be marked.

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