

HON'BLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION No.2733 OF 2025

ORDER:

Heard Mr. T.V. Ramana Rao, learned counsel for the petitioner, learned Assistant Public Prosecutor and Sri T.Bala Mohan Reddy, learned counsel appearing for 2nd respondent.

2. The present Criminal Petition is filed under Section - 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS') to quash the proceedings in Cr.No.205 of 2024 of P.S. Utnoor, Adilabad District. The offences alleged against the petitioner herein are punishable under Sections 352, 353 (2), 356(2) of the Bharatiya Nyaya Sanhita, 2023 (BNS).

3. Contents of the complaint, dated 03.10.2024 of 2nd respondent, a Member of Indian National Congress Party, are that she is having a very good rapport with the neighbouring Maharashtra people. Since 30.09.2024, several people from Maharashtra have enquired with her about a news which was widely circulated in print, electronic and social media in which the Congress Party is accused of siphoning Rs.25,000 Crore from Musi Project in Hyderabad and they shared copies of the news published in the newspapers on 01.10.2024.

They stated with her that there are also video clips. On her enquiry, she came to know that BRS Working President Mr. K. Taraka Rama Rao, MLA, the petitioner herein, addressed a press conference at his party office in Banjara Hills, visited an area called Kishanbagh in Hyderabad on 30.09.2024 and made statements that the present Chief Minister of Telangana with an intention to come to power, has given so many assurances but keeping aside all the assurances, he has fallen on Musi River. He further stated that to save his chair, the Chief Minister, out of Rs 1,50,000 Crores project, planning to send an amount of Rs 25.000 Crores to Delhi Congress. That is why they are driving away. The liars are speaking in such a way as to disturb the reputation and responsibility of the Congress Party and giving wrong signal to the people of Telangana. The Chief Minister also speaking in such a way that lowers the level of the Chief Minister.

4. The Police Utnoor, on preliminary enquiry, registered the said complaint as a case in Cr.No.205 of 2024 against the petitioner herein for the aforesaid offences.

5. Learned counsel for the petitioner would contend that the entire allegations made in the complaint are absolutely false and fabricated for the purpose of foisting a false case against the

petitioner. The petitioner is innocent. There is no intent of *mens rea* on the part of the petitioner so as to attract the provisions of the offences alleged against him. Even the allegation that the petitioner made the Congress Party an accused of siphoning Rs.25,000 Crores from Musi Project in Hyderabad, by itself does not amount to an act of intentional insult, intending or knowing it to be likely that such words would provoke the person insulted and that such provocation would cause him to break the public peace or to commit any offence under Section 352 of BNS. The complaint is silent on the suspect of who is the person, who has been insulted and that such person would break the public peace or commit any other offence. There is no rumour or alarming news circulated by the petitioner. There is no intent to create or promote feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities by making, publishing or circulating any statement or report containing rumour or alarming news attributable to the petitioner and that such rumour or alarming news has the propensity to create or promote feelings of enmity or hatred or ill-will. The entire allegations in the complaint, even if it is taken on its face value and accepted in its entirety, no case is made out against the petitioners for the offences

alleged against him. Therefore, continuation of the proceedings in FIR is nothing but an abuse of process of law. The petitioner herein has also made false and baseless allegation against the present Chief Minister of Telangana without any evidence. Therefore, he sought to quash the proceedings in Cr.No.205 of 2024 of P.S.Utnoor. He has also placed reliance on the principle laid down by the Apex Court in **Imran Pratapgadhi vs. State of Gujarat¹**, **Bilal Ahmed Kaloo vs. State of A.P.²**, **K.Nagendra Babu @ Nagendra Rao vs. Yathipathi Arun Kumar³** and **Ganguloth Jagan v. the State of Telangana⁴**

6. Learned Public Prosecutor representing the respondent-State would submit that during the course of investigation, statements of L.Ws. 1 to 5 under Section 161 Cr.P.C. were recorded and collected videos in the pen drive. As per the statements of witnesses and evidence collected, Section 61(2), 353(1) (b), 356 (1), 171, 174, 175 of BNS were added on 18.10.2024 by filing memo. The complaint discloses a cognizable offence as such FIR is registered and investigation is under process. It is settled principle that the investigation cannot be stayed at the threshold and to establish the

¹ 2025 LawSuit (SC) 427

² (1997) 7 SCC 431

³ 2017 LawSuit(HYd)

⁴ Crl.P.No.2894 of 2015

guilt of the accused, further investigation is very much necessary. As the petitioner failed to make out a case and the case is still at initial stage of investigation, he sought to dismiss the petition.

7. Learned counsel for the 2nd respondent would contend that the present petition is filed with misrepresentation of facts. The petitioner in order to curtail investigation sought to quash the proceedings on misconceived and irrelevant grounds. The acts of the petitioner mentioned in the complaint attracts the provisions of the offences alleged. The petitioner has been spreading false information about the State Government with an intent to defame the government and to disturb public tranquility. The acts of the petitioner constitute offences alleged against him. The contention of the petitioner that there is no intent of *mens rea* on the part of the petitioner is misconceived. The petitioner who is in a responsible position and also being at the helm of the affairs of the BRS party with a clear intent and conspiracy to defame the Congress party and also with a larger conspiracy to provoke breach of peace has made such statements. The contents of the complaint are matter of facts which can only be adjudicated during the course of trial. The petitioner is trying to scuttle the investigation at the preliminary stage by way of filing this criminal

petition. He has also placed reliance on the judgment in **State of Telangana vs. Habib Abdullah Jeelani**⁵ reiterating power of the High Court under Section 482 of CrPC, to be exercised sparingly. Therefore, he sought to dismiss the present criminal petition.

8. In the light of the aforesaid discussion, it is relevant to refer Sections 352, 353(2) and 356(2) of BNS and the same are extracted hereunder:

Section 352:- Intentional insult with intent to provoke breach of the peace-Whoever intentionally insults in any manner, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Section 353: Statements conducing to public mischief.—

(2) Whoever makes, publishes or circulates any statement or report containing false information, rumour or alarming news, including through electronic means, with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities, shall

⁵ (2017) 2 SCC 779

be punished with imprisonment which may extend to three years, or with fine, or with both.

Section 356-Defamation:-(2) Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both, or with community service.

9. As per Section 352 of BNS, there should be an intentional insult and thereby gives provocation to any person, intending or knowing it is to be likely that such provocation will cause him to break the public peace or to commit any other offence, shall be punishable.

10. As per Section 353(2) BNS, whoever makes, publishes or circulates any statement or report containing false information, rumour or alarming news, including through electronic means, with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

11. Section 352 of BNS is akin to Section 504 of IPC, Similarly, Section 353 is to Section 505 of IPC and Section 356 is to Section 500 of IPC.

12. In **Bilal Ahmed Kaloo (supra)**, the Apex Court at paragraph Nos.12 and 24 held as under:-

"12.... The words "whoever makes, publishes or circulates used in the setting of Section 505 (2) cannot be interpreted disjunctively but only as supplementary to each other. If it is construed disjunctively, anyone who makes a statement falling within the meaning of Section 505 would, without publication or circulation, be liable to conviction...."

"24. Before parting with this judgment, we wish to observe that the manner in which convictions have been recorded for offences under Sections 153-A, 124-A and 505 (2), has exhibited a very casual approach of the trial court. alone the absence of any evidence which may attract the provisions of the sections, as already observed, even the charges framed against the appellant for these offences did not contain the essential ingredients of the offences under the three sections. The appellant strictly speaking should not have been put to trial for those offences. A mechanical order convicting a citizen for offences of such serious nature like sedition and promoting enmity and hatred etc. does harm to the cause. It is expected that the graver the offence, greater should be the care taken so that the liberty of a citizen is not lightly interfered with."

In the aforesaid decision, the Apex Court, while dealing with similar circumstances, held that the main ingredients of Section 505 (2) I.P.C. are provoking enmity, hatred or ill-will between different classes of people. It was also held that *mens rea* is also equally necessary to postulate the offence under Section 505 (2) I.P.C.

13. In the instant case, the allegation leveled against the petitioner-accused is that he made allegations against Chief Minister of the State. It is between two individuals. Though one of them is Honorable Chief Minister of the State of Telangana, there is no mention of above referred ingredients anywhere in the material collected by the Investigating Officer. Further, from a plain reading of the alleged statement made by the petitioner-accused, it cannot be held that those statement, in any case, would create rumors, promote enmity, hatred or ill-will between two classes of persons or between different religions, race, language or regional groups or castes or communities. Viewed from any angle, the alleged statement made by the petitioner-accused would not fulfill the requirements under Section 353 (2) of BNS. Furthermore, there is no *mens rea* creating or promoting enmity, hatred or ill-will between different classes of people. The petitioner-accused is facing prosecution for the offences

punishable under Sections 352 and 353(2) of BNS. The Investigating Officer did not classify whether the offence alleged against the petitioner-accused falls under Section 353(2) BNS or not. Even the allegations made in the FIR and the statements recorded by the police, in question provoked enmity, hatred or ill-will between different class of people etc.

14. Initially, the FIR was registered for the offences under Sections 352, 353(2) and 356 (2) of BNS. During the course of investigation, basing on the statements of witnesses, the Investigating Officer added Sections 61(2), 353(1) (b), 356 (1), 171, 174, 175 of BNS by filing memo dated 18.10.2024 which are relevant and extracted below:-

61. Criminal conspiracy.—(1) When two or more persons agree with the common object to do, or cause to be done—

(b) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy:

353. Statements conducing to public mischief.—

(1) Whoever makes, publishes or circulates any statement, false information, rumour, or report, including through electronic means—

(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility;

356. Defamation.—(1) Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes in any manner, any imputation concerning any person intending to harm, or

knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

171. Undue influence at elections.—(1) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.

174. Punishment for undue influence or personation at an election.—Whoever commits the offence of undue influence or personation at an election shall be punished with imprisonment of either description for a term which may extend to one year or with fine, or with both.

175. False statement in connection with an election.—Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate shall be punished with fine.

15. As discussed supra, the contents of the FIR as well as the statements of witnesses lacks the ingredients of the offences punishable under Sections 352, 353(2) and 356(2) of BNS. Even perusal of the contents of the FIR lacks the ingredients of the added Sections 61(2), 353(1) (b), 356 (1), 171, 174, 175 of BNS.

16. In view of the observations and findings recorded above, the proceedings in Cr.No.205 of 2024 pending on the file of P.S. Utnoor, against the petitioner-accused are liable to be quashed.

17. Accordingly, the Criminal Petition is allowed and the proceedings in Cr.No.205 of 2024 pending on the file of P.S. Utnoor, Adilabad District, against the petitioner herein are quashed.

As a sequel, the miscellaneous petitions, if any, pending in the criminal petition shall stand closed.

K. LAKSHMAN, J

Date:21.04.2025

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