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RAVURI KRISHNA MURTHY

v.

THE STATE OF TELANGANA AND OTHERS

(Criminal Appeal Nos. 274 – 275 of 2021)

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MARCH 05, 2021

**[DR. DHANANJAYA Y CHANDRACHUD AND
M. R. SHAH, JJ.]**

- Code of Criminal Procedure, 1973 – s.482 – Blanket order of protection from arrest – Sustainability of – The High Court stayed all the proceedings in a suit OS No. 274 of 2014 and directed the District Collector, to submit report in respect of allegation involving fabrication of the judgment and decree dated 11.11.2014 in the said suit – The District Collector conducted an enquiry and submitted a report to the High Court, stating that the decree as well as the judgment were fabricated and no such decree was passed by the Sub-Divisional Magistrate in OS No. 274 of 2014 on 11.11.2014 – The High Court directed the Sub-Divisional Magistrate to take necessary action on the administrative side – FIR was registered u/s. 420, 468 and 471 r/w. 34 IPC – Second and third respondents were served with notices u/s.41A of the Cr.P.C. – This was followed by the proceedings before the High Court for the quashing of the FIR – The High Court dismissed the petition filed by the second and third respondents u/s. 482 Cr.P.C. – While the High Court did not grant relief to the second respondent, it issued a final direction, restraining the arrest of the third respondent – The second respondent was arrested and produced before the Chief Metropolitan Magistrate – Whether the High Court was justified in passing a blanket direction of restraining the police from arresting the third respondent, while at the same time having come to the conclusion that there was no merit in the petition for quashing u/s. 482 – Held: The High Court was justified in declining to exercise its jurisdiction u/s. 482 and, therefore, rejected the application for quashing the proceedings – Equally, there was no basis or justification for directing that the third respondent should not be arrested and that the Investigating Officer must complete the investigation and file a final report u/s.173 Cr.P.C. without arresting the third respondent – Such a direction by the High Court has the effect of impeding the*

course of the investigation and has no basis or justification in law – A person in the position of the third respondent has remedies available under the Code of Criminal Procedure to protect his liberty by either seeking anticipatory bail u/s. 438 Cr.P.C. or applying for regular bail u/s. 439 – A blanket direction of the nature which was issued by the High Court would completely dislocate the investigation and cause a serious obstruction in the enforcement of criminal justice – The said direction of the High Court is unsustainable in law – The impugned judgment and order of the High Court, insofar as it restrains the Investigating Officer from arresting the third respondent is set aside.

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Allowing the appeals, the Court

HELD: 1. The High Court was of the view that (i) the truth of the allegations was a matter which had to be ascertained by the Investigating Officer during the course of investigation; and (ii) in view of the seriousness of the allegations, no relief was being granted to the second respondent (the first accused). However, the High Court proceeded to issue a blanket restraint against the arrest of the third respondent (the second accused) by directing that the police would complete the investigation and file a final report in accordance with law. This Court is affirmatively of the view that the direction of the High Court is unsustainable in law. The narration in the earlier part of the judgment would indicate that the registration of the FIR was preceded by a report submitted by the Collector to the High Court which had mandated an enquiry into the allegation in regard to the fabrication of a judicial record. It was pursuant to the report filed by the Collector, that the High Court directed the Sub Divisional Magistrate to proceed on the administrative side in accordance with law. An FIR has been registered involving a serious allegation in regard to the fabrication of judicial records. [Para 8][991-E-G; 992-A]

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2. The High Court was justified in declining to exercise its jurisdiction under Section 482 and, therefore, rejected the application for quashing the proceedings. Equally, there was no basis or justification for directing that the third respondent should not be arrested and that the Investigating Officer must complete

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- A the investigation and file a final report under Section 173 of the Code of Criminal Procedure without arresting the third respondent. Such a direction by the High Court has the effect of impeding the course of the investigation and has no basis or justification in law. The petition under section 482 was for quashing the FIR. The High Court found no substance in the petition. The matter should have ended there. The order restraining arrest was not in aid of further proceedings. Indeed, the proceedings were at an end once the High Court declined to quash the FIR. A person in the position of the third respondent has remedies available under the Code of Criminal Procedure to protect his
- B liberty by either seeking anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 or applying for regular bail under Section 439. A blanket direction of the nature which has been issued by the High Court would completely dislocate the investigation and cause a serious obstruction in the enforcement of criminal justice. Such an order ought not to have been passed by the High Court. What compounds matters is that there is not a word in justification in the order of the High Court for issuing such a direction. The High Court has been oblivious to the serious nature of the allegations, involving the tampering of a judicial record. This Court disapproves of the course followed by the
- C High Court. It has no foundation in law. [Para 10][993-B-F]

The State of Telangana vs. Habib Abdullah Jeelani and Ors. (2017) 2 SCC 779 : [2017] 1 SCR 141 – relied on.

Case Law Reference

F	[2017] 1 SCR 141	relied on	Para 9
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CRIMINAL APPELLATE JURISDICTION: Criminal Appeal Nos. 274-275 of 2021

- G From the Judgment and Order dated 25.04.2016 & 27.07.2016 of the High Court of Judicature at Hyderabad for the State of Telangana & the State of Andhra Pradesh in Criminal Petition Crl.P.No. 6165 of 2016 & CRLMP No. 10845 of 2016 in Criminal Petition Crl. P.No. 6165 of 2016.

G.V.R. Choudary, K. Shivraj Choudhuri, Advs. for the Appellant. A

Ms. Bina Madhwan, S. Udaya Kumar Sagar, Ms. Sweena Nair,
Anukul Raj, Kumar Dushyant Singh, Advs. for the Respondents.

The Judgment of the Court was delivered by

DR. DHANANJAYA Y CHANDRACHUD, J.

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1. Leave granted.

2. By an order dated 25 April 2016, a Single Judge of the High Court of Andhra Pradesh dismissed a petition under Section 482 of the Code of Criminal Procedure 1973 for quashing a First Information Report. However, after coming to the conclusion that no case for quashing was established, the Single Judge granted a blanket order of protection from arrest to the second accused. The second accused is impleaded to these proceedings as the third respondent. C

3. On 29 March 2016, a complaint was received by the Inspector of Police, Charminar Police Station, Hyderabad from the appellant claiming to be an owner in possession of land ad-measuring Ac 3-18 guntas situated at Jagannadhapuram Panchayati, Rangapuram Village, Paloncha Mandal, Khammam District, Telangana. It was alleged that the second respondent (the first accused) engaged the third respondent (the second accused) as his lawyer and that the advocate and client colluded to fabricate a sale deed in respect of the property. Moreover, it was alleged that the second respondent instituted a suit, OS No 274 of 2014, before the Sub Divisional Magistrate, Mobile Court, Bhadrachalam, Khammam seeking a perpetual injunction against the appellant in respect of the suit property on the basis of a fabricated sale deed dated 30 November 2005. It has been alleged that the records in OS No 274 of 2014 were tampered with by fabricating an *ex-parte* judgment and decree dated 11 November 2014 in favour of the second respondent. Moreover, it was alleged that the second respondent filed a Civil Revision Petition (CRP No 4711 of 2014) before the High Court with a grievance that the Sub Divisional Magistrate was not adjudicating upon the dispute. The appellant is alleged to have filed Civil Miscellaneous Revision Petition No 6433 of 2014 in Civil Revision Petition No 4711 of 2014, seeking a stay of further proceedings in IA No 149 of 2014 in OS No 274 of 2014 pending the disposal of the Civil Revision. It was alleged that the second and third respondents had tampered with the records relating to OS No 274/2014 and in the process, had also tampered with the docket sheet of H

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- A the Mobile Court by fabricating an *ex-parte* decree dated 11 November 2014.
 - 4. The High Court by its order dated 12 December 2014 stayed all the proceedings in OS No 274 of 2014 and directed the District Collector, Khammam to submit a report in respect of the allegation
- B involving the fabrication of the judgment and decree dated 11 November 2014 in OS No 274 of 2014. The District Collector conducted an enquiry and submitted a report to the High Court, stating that the decree as well as the judgment were fabricated and no such decree had been passed by the Sub Divisional Magistrate, Mobile Court, Bhadrachalam in OS No 274 of 2014 on 11 November 2014. The High Court disposed of the Civil Revision (CRP No 4711/2014) filed by the second respondent and directed the Sub Divisional Magistrate to take necessary action on the administrative side.
- C 5. On 29 March 2016, FIR 62/2016 was registered under Sections 420, 468 and 471 read with Section 34 of the Indian Penal Code at the Charminar Police Station and the investigation was taken up. During the course of the investigation, the Investigating Officer recorded the statements of various persons. The second and third respondents were served with notices under Section 41A of the Code of Criminal Procedure 1973. This led to the institution of the proceedings before the High Court
- D for quashing the FIR, in the form of Criminal Petition No 6165 of 2016. The High Court by its judgment dated 25 April 2016 dismissed the petition filed by the second and third respondents under Section 482. While the High Court did not grant relief to the second respondent, it issued a final direction, restraining the arrest of the third respondent. As regards the second respondent, it has emerged from the counter affidavit which has been filed by the State that he was arrested on 23 March 2017 and produced before the Chief Metropolitan Magistrate, Nampally. The counter affidavit states that during the course of the investigation, it has emerged that the second and third respondents took the aid of a Magisterial clerk (the third accused). On 3 August 2018, a charge-sheet
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- H has been submitted to the competent court against the three accused. The case, namely, CC No 465/2018 is pending on the file of the Chief Metropolitan Magistrate, Nampally, Hyderabad.
- 6. The principal issue which arises in these proceedings is whether the High Court was justified in passing a blanket direction of the nature as it did, restraining the police from arresting the third respondent, while

at the same time having come to the conclusion that there was no merit in the petition for quashing under Section 482. The High Court has observed:

“On perusal of the entire material available on record, *prima facie* there are some allegations as against the petitioners and truth or otherwise of the said allegations can be ascertained by the investigating agency during the course of investigation and this Court is not inclined to quash the proceedings in the said crime at the threshold. At this stage, learned counsel for the petitioners submitted that in view of the pendency of the above crime, the petitioners apprehend arrest and also harassment in the hands of the police.

Considering the seriousness of the allegations, this Court is not inclined to grant any relief to the first petitioner-A.1. As far as second petitioner-A.2 is concerned, the police concerned are directed to complete the investigation into the crime without arresting the second petitioner-A.2 and file a final report, if any, in accordance with law. The second petitioner-A.2 is directed appear before the investigating agency as and when required and cooperate with the investigating agency.”

7. We have heard Mr G V R Choudary, learned counsel for the appellant, Ms Bina Madhavan, learned Counsel for the State and Mr Anukul Raj, learned counsel for the second and third respondents.

8. The High Court was of the view that (i) the truth of the allegations was a matter which had to be ascertained by the Investigating Officer during the course of investigation; and (ii) in view of the seriousness of the allegations, no relief was being granted to the second respondent (the first accused). However, the High Court proceeded to issue a blanket restraint against the arrest of the third respondent (the second accused) by directing that the police would complete the investigation and file a final report in accordance with law. We are affirmatively of the view that the direction of the High Court is unsustainable in law. The narration in the earlier part of the judgment would indicate that the registration of the FIR was preceded by a report submitted by the Collector, Khammam to the High Court which had mandated an enquiry into the allegation in regard to the fabrication of a judicial record. It was pursuant to the report filed by the Collector, that the High Court directed the Sub Divisional Magistrate to proceed on the

- A administrative side in accordance with law. An FIR has been registered involving a serious allegation in regard to the fabrication of judicial records.
9. In **The State of Telangana vs. Habib Abdullah Jeelani and Ors.**¹, a controversy arose before this Court where the High Court while declining to exercise its inherent powers under Section 482 of the Code of Criminal Procedure for quashing an investigation, restrained the investigating agency from arresting the accused persons during investigation. This Court held that that such a direction amounted to an exercise under Section 438 of the Code of Criminal Procedure without satisfying any of the conditions stipulated under that section. This Court held:
- C “16. In the instant case, the High Court has not referred to allegations made in the FIR or what has come out in the investigation. It has noted and correctly that the investigation is in progress and it is not appropriate to stay the investigation of the case. It has disposed of the application Under Section 482 Code of Criminal Procedure and while doing that it has directed that the investigating agency shall not arrest the accused persons. This direction “amounts” to an order Under Section 438 Code of Criminal Procedure, albeit without satisfaction of the conditions of the said provision. This is legally unacceptable.
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- F 23.....What needs to be stated here is that the States where Section 438 Code of Criminal Procedure has not been deleted and kept on the statute book, the High Court should be well advised that while entertaining petitions Under Article 226 of the Constitution or Section 482 Code of Criminal Procedure, exercise judicial restraint. We may hasten to clarify that the Court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, has the jurisdiction to quash the investigation and may pass appropriate interim orders as thought apposite in law, but it is absolutely inconceivable and unthinkable to pass an order of the present nature while declining to interfere or expressing opinion that it is not appropriate to stay the investigation. This kind of order is really inappropriate and unseemly. It has no sanction in law. The Courts should oust and
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- H ¹(2017) 2 SCC 779

obstruct unscrupulous litigants from invoking the inherent jurisdiction of the Court on the drop of a hat to file an application for quashing of launching an FIR or investigation and then seek relief by an interim order. It is the obligation of the court to keep such unprincipled and unethical litigants at bay.” A

10. The High Court was justified in declining to exercise its jurisdiction under Section 482 and, therefore, rejected the application for quashing the proceedings. Equally, there was no basis or justification for directing that the third respondent should not be arrested and that the Investigating Officer must complete the investigation and file a final report under Section 173 of the Code of Criminal Procedure without arresting the third respondent. Such a direction by the High Court has the effect of impeding the course of the investigation and has no basis or justification in law. The petition under section 482 was for quashing the FIR. The High Court found no substance in the petition. The matter should have ended there. The order restraining arrest was not in aid of further proceedings. Indeed, the proceedings were at an end once the High Court declined to quash the FIR. A person in the position of the third respondent has remedies available under the Code of Criminal Procedure to protect his liberty by either seeking anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 or applying for regular bail under Section 439. A blanket direction of the nature which has been issued by the High Court would completely dislocate the investigation and cause a serious obstruction in the enforcement of criminal justice. Such an order ought not to have been passed by the High Court. What compounds matters is that there is not a word in justification in the order of the High Court for issuing such a direction. The High Court has been oblivious to the serious nature of the allegations, involving the tampering of a judicial record. We disapprove of the course followed by the High Court. It has no foundation in law. F

11. We accordingly allow the appeals and set aside the impugned judgment and order of the High Court dated 25 April 2016, insofar as it restrains the Investigating Officer from arresting the third respondent (the second accused). G

12. We clarify that we have not interfered with the dismissal of the petition for quashing the petition under Section 482. Since the charge-sheet has been submitted, as stated in the counter affidavit on behalf of the State of Tamil Nadu, the third respondent shall surrender before the H

A competent court within two weeks and apply for regular bail. Any such application shall be considered after hearing the public prosecutor and bearing in mind the requirement of the investigating agency.

13. Pending applications, if any, stand disposed of.

Ankit Gyan

Appeals allowed.