

Raghavendrarao (A1) and ors. Vs. State of Andhra Pradesh

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Court : Andhra Pradesh

Decided On : Jan-25-1972

Reported in : 1973CriLJ789

Judge : Muktadar, J.

Appellant : Raghavendrarao (A1) and ors.

Respondent : State of Andhra Pradesh

Judgement :

ORDER

Muktadar, J.

1. The Fourth City Magistrate, Hyderabad framed charges against the accused under Sections 120-B, 420 and 341. I.P.C. A-2, A-3. and A-7 to A-10 have preferred this revision against the said order dated 14.4.1971. Mr. K. Rama Sarma. the learned Advocate for the petitioners contends that the learned Magistrate was incorrect in framing the said charges as the documents referred to under Section 173, Cr.P.C. do not disclose any valid ground for the framing of the charges. He further contends that there are contradictions in the first information and the statement of P-W. 1 (complainant) under Section 162, Cr.P.C. as such, no offence has been made out warranting the framing of the charges. I cannot accede to the contentions of the learned advocate. In R.P. Kapur v. State of Punjab : 1960CriLJ1239 . the Supreme Court has laid down some of the categories of cases where the High Court In exercise of its inherent jurisdiction could interfere and quash the proceedings. These are, (1) where it manifestly appears that there is a legal bar against the institution or continuance of the criminal proceeding in respect of the offence alleged such as for example the requisite sanction which may be necessary for prosecution; (2) where the allegations in the first information report or the complaint, even if taken at their face value and accepted in their entirety, do not constitute the offence alleged; in such cases, appreciation of evidence does not arise at all; and (3) where the allegations made against the accused person do constitute an offence but either there is no legal evidence adduced in support of the case or the evidence clearly or manifestly fails to prove the charge. In such a case, it is to be noted that there is a distinction between a case where there is no legal evidence or where there is evidence which is manifestly and clearly inconsistent with the accusation made and cases where there is legal evidence which on its appreciation may or may not support the accusation in question. The Supreme Court has further held that in exercising its jurisdiction under Section 561-A, Cr.P.C. the High Court would not embark upon an enquiry as to whether the evidence in question is reliable or not because that is the function of the trial Magistrate, and it would not be open to any party to invoke the inherent

jurisdiction of the High Court and contend that on a reasonable appreciation of the evidence, the accusation made against the accused could not be sustained.

2. In the light of the above principles laid down by the Supreme Court, it is necessary for me to examine as to whether this Court in exercise of its inherent jurisdiction ought to interfere and quash the proceedings. It is to be noted that Section 251-A, Cr.P.C. requires a Magistrate to consider the documents referred to in Section 173, Cr.P.C. before framing charges. The documents referred to in Section 173, Cr.P.C. consist of records of investigation which are not admissible in evidence at the trial but can be made use of for limited purpose as stated in Section 162, Cr.P.C. This material does not at the stage of framing a charge have the status of evidence tendered on oath nor has its veracity been tested by cross-examination or contradicted by the evidence which the accused may lead in defense. It may be that at the trial, the material on the basis of which a charge has been framed may not stand the test of cross-examination or is rendered unacceptable but these considerations become available only at the conclusion of the trial and do not enter into consideration at the stage when the Magistrate has to make up his mind as to whether or not he should frame a charge. The only question, therefore, is whether the material considered by the learned Magistrate could lead to the view that the charge against the petitioner is proper. I am of the opinion that the allegations in the first information taken at their face value do constitute an offence alleged by the prosecution. The Magistrate, after considering the documents submitted under Section 173, Cr.P.C. has framed the charges. Hence the view taken by the learned Magistrate against the petitioners cannot be considered to be groundless at this stage of the case.

3. The petition is, therefore, dismissed.

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