

APHC010280682020

IN THE HIGH COURT OF ANDHRA PRADESH



AT AMARAVATI

[3396]

(Special Original Jurisdiction)

FRIDAY ,THE TENTH DAY OF MAY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT. JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION Nos.5261 OF 2019 AND 5864 OF 2020

CRIMINAL PETITION No.5261 OF 2019

Between:

Yedla Satheesh

...PETITIONER/ACCUSED

AND

Post Commander and Others

...RESPONDENT/COMPLAINANT(S)

CRIMINAL PETITION No.5864 OF 2020

Between:

Yedla Satish

...PETITIONER/ACCUSED

AND

N Ramaiah and Others

...RESPONDENT/COMPLAINANT(S)

Counsel for the Petitioner/accused:

N.RAVI PRASAD

Counsel for the Respondent/complainant(S):

1.Y.V.ANIL KUMAR

2.PUBLIC PROSECUTOR (AP)

The Court made the following:

COMMON ORDER:

Criminal Petition No.5261 of 2019 has been filed under Section 482 of Code of Criminal Procedure, 1973¹, by the Petitioner/Accused seeking to quash the proceedings against him in C.C.No.428 of 2018 on the file of the Court of II Additional Metropolitan Magistrate for Railways, Vijayawada for the offences punishable under Sections 137, 145 (b) and 146 of the Railways Act².

Criminal Petition No.5864 of 2020 under Section 482 of Cr.P.C has been filed by the Petitioner/Accused, seeking to quash the proceedings against him in C.C.No.219 of 2019 on the file of the Court of II Metropolitan Magistrate for Railways, Vijayawada for the offences punishable under Sections 354, 353, 509, 186 and 419 of Indian Penal Code,1860.³

2. The facts of the case, in brief, are as follows:

a. On 20.02.2018 during night time, Petitioner/Accused boarded Machilipatnam-Visakhapatnam Passenger Train No.57229, and approached L.W.2- N.Krishna Sagar, who was discharging his officer duty as Travelling Ticket Examiner(TTE) for S.1 and S.2 coaches, introduced himself as if he was a Railway Officer and asked him to provide a berth. The T.T.E allotted berth No.39 in S.1 coach to the Petitioner upto Bhimavaram.

b. At about 2.00 to 2.30 hours on 21.02.2018, the Petitioner/ Accused intentionally approached L.W.3 – Chodisetty Anusha, who was travelling in the

¹ for short 'Cr.P.C'

² for short 'the Act'

³ for short 'IPC'

same coach in berth No.38 and misbehaved with her by touching her legs and hands and also abusing her in filthy language. Though said Anusha got changed to berth No.33 by requesting the T.T.E., Petitioner/Accused continued his misbehavior, went to berth No.33, touched and abused her in filthy language and thereby outraged her modesty.

c. The Petitioner also misbehaved with other lady passengers who boarded at Bhimavaram Town Railway Station and abused them in unparliamentary language. Petitioner also threatened them with dire consequences when they tried to calm him down.

d. When the T.T.E warned the Petitioner and tried to send him from that coach, he also threatened the T.T.E who is a public servant on duty that he would see his end and remove him from service by complaining to D.R.M., Vijayawada.

e. Having received information about the said incident, L.W.1 – N.Ramayya, the-then Inspector of RPF, Rajahmundry got the Petitioner/Accused detained at Rajahmundry Railway Station and after investigation, lodged a report against the Petitioner/Accused, based on which a case in Crime No.13 of 2018 was registered by the SHO, Bhimavaram Railway Police Station against the Accused for the offences under Sections 354, 353, 506 IPC and another Crime No.506 of 2018 was registered by the Post Commander/RPF/Rajahmundry for the offences under Sections 137, 145(b) and 146 of the Act.

f. After due investigation, charge sheets have been filed against the Petitioner/Accused in the above two crimes which were numbered as C.C.No.219 of 2019 on the file of the Court of II Metropolitan Magistrate for Railways, Vijayawada and C.C.No.428 of 2018 on the file of the Court of VII Additional Metropolitan Magistrate for Railways, Vijayawada.

Grounds Sought for Quashment

3. Aggrieved by the registration of said cases, the Petitioner/ Accused filed the present petitions seeking quashment of the said cases on the following grounds:

a. Petitioner is innocent and has not committed any offence much less the alleged offences.

b. Petitioner worked as Assistant Operations Manager (Coaching) at Vijayawada and due to pressure of work, he became mentally imbalanced. Petitioner was treated at Secunderabad Railway Hospital for his mental illness.

c. On the date of alleged incident, the Petitioner was not aware as to what had happened and when he was produced before the Court, the learned Magistrate refused to remand him for the reason that the Petitioner was mentally imbalanced.

d. Mere touching of feet and hands of the lady passengers would not constitute the offence under Section 354 IPC. To attract the offence under Section 353 IPC, there must be assault or use of criminal force to deter a public servant and the same is absent in the present case.

e. Petitioner may be exempted from the above offences, because such incident had happened beyond the control of the Petitioner as he was mentally insane.

Arguments Advanced at the Bar

4. Heard Sri N.Ravi Prasad, learned counsel for the Petitioner and Sri Y.V.Anil Kumar, learned Central Government Counsel for Respondent No.1 and Ms.D.Prasanna Lakshmi, learned Assistant Public Prosecutor representing the State/Respondent No.2.

5. Learned counsel for the Petitioner would submit that the Petitioner was appointed as Assistant Operation Manager in Railway Department in the year 2015 and he underwent training for two years. After training the Petitioner was posted at Krishnapatnam Port and worked there for nine months. Later, he was transferred to Vijayawada. He had to spend sleepless nights in discharging his duties, which resulted in mental imbalance. Learned counsel further submits that the Petitioner was treated at Secunderabad Railway Hospital for his mental illness prior to the alleged incident and that Petitioner was not aware as to what had happened and even whether he travelled in that train at the time of the alleged incident. Learned counsel would further submit that, at the time of remand, learned Magistrate refused to take him into remand because he was mentally imbalanced. Thereafter, his parents took him to Visakhapatnam for treatment.

6. Learned counsel for the Petitioner further submits that it is alleged against the Petitioner that he touched the feet and hands of a lady passenger

which itself does not constitute the offence under Section 354 IPC, in the absence of any intention to outrage her modesty. Coming to the offence under Section 353 IPC, mere using abusive language on a public servant is not sufficient unless it is coupled with the use of criminal force to deter him from discharging his duties. In the present case, it is alleged that T.T.E was threatened that the Petitioner would make a complaint against him to the D.R.M. Intention to commit such offence does not arise because the Petitioner was not mentally fit. Therefore, continuation of proceedings against the Petitioner is nothing but an abuse of process of the Court.

7. Learned counsel for the Petitioner would submit that for the very same incident, the RPF Commander filed a complaint in Crime No.506 of 2018 for the offences punishable under Sections 137, 145(b) and 146 of the Act which was taken cognizance as C.C.No.428 of 2018 i.e., for travelling in a railway coach without proper pass or ticket and for obstructing the TTE from discharging his duties. Learned counsel further submits that for the self-same incident, Railway Police, Bhimavaram and Rajahmundry have registered two crimes and two charge sheets have also been filed. Learned counsel submits that the Petitioner reported to duty after getting the fitness on 02.04.2018.

8. Learned Central Government Counsel and the Learned Assistant Public Prosecutor, in unison, would submit that the Petitioner misbehaved with a lady passenger and the railway TTE, who travelled in S-1 coach. It is also contended that the documents filed before the Court stating that the Petitioner suffered from Mania with Psychosis and the other record to show that he was

unable to understand as to what had happened, require a detailed enquiry. Hence, it is not a fit case for quashment. It is further submitted that the Court may pass appropriate orders by giving liberty to the Petitioner to submit his medical record before the trial Courts to take an appropriate decision. Learned Central Government Counsel would further submit that the Petitioner got promotion after the incident.

Point for Determination

9. Having heard the submissions of the learned counsel representing both the parties, now the point that would emerge for determination is:

Whether there are any justifiable grounds for quashment of proceedings against the Petitioner/ Accused in the above cases?

Determination by the Court

10. A bare perusal of Section 482 makes it clear that the Code envisages that inherent powers of the High Court are not limited or affected so as to make orders as may be necessary; (i) to *give effect to any order under the Code or, (ii) to prevent abuse of the process of any Court or, otherwise (iii) to secure ends of justice.* A court while sitting in Section 482 jurisdiction is not functioning as a court of appeal or a court of revision. It must exercise its powers to do real and substantial justice, depending on the facts and circumstances of the case. These powers must be invoked for compelling reasons of abuse of process of law or glaring injustice, which are against sound principles of criminal jurisprudence.

11. The case against the Petitioner is that, on the night of 20.02.2018, the Petitioner travelled in Machilipatnam–Visakhapatnam Passenger Train No.57229 without having pass or ticket, and he misbehaved with a lady passenger by touching her hands and legs, abused her in filthy language and thereby outraged her modesty and also obstructed the TTE from discharging his duties and also abused and threatened him to complain to the DRM.

12. For better understanding, it is apposite to extract Sections 137, 145(b) and 146 of Railways Act, which read as under:

“137. Fraudulently traveling or attempting to travel without proper pass or ticket. – (1) *If any person, with intend to defraud a railway administration, -*

(a) enter or remains in any carriage on a railway or travels in a train in contravention of Sec.55, or

(b) uses or attempts to use a single pass or a single ticket which has already been used on a previous journey, or in the case of a return ticket, a half thereof which has already been so used, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both; Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than a fine of five hundred rupees.

(2) The person referred to in sub-section (1) shall also be liable to pay the excess charge mentioned in sub-section (3) in addition o the ordinary single fare for the distance which he has traveled, or where there is any doubt as to the station from which the train originally started, or if the tickets of passengers traveling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were so examined or , in case of their having been examined more than once, were last examined.

(3) The excess charge referred to in sub-section (2) shall be a sum equal to the ordinary single fare referred to in that sub-section or fifty rupees, whichever is more.

(4) Notwithstanding anything contained in Sec. 65 of the Indian Penal code, (45 of 1860) the court convicting an offender may direct that the person in default of payment of any fine inflicted by the court shall suffer imprisonment for a term which may extend to six months.

145. Drunkenness or nuisance:- *If any person in any railway carriage or upon any part of a railway:-*

(a) is in a state of intoxication; or

(b) commits any nuisance or act of indecency or uses abusive or obscene language;

(c) willfully or without excuse interferes with any amenity provided by the railway administration so as to affect the comfortable travel of any passenger, he may be removed from the railway by any railway servant and shall, in addition to the forfeiture of his pass or ticket, be punishable with imprisonment which may extend to six months and with fine which may extend to five hundred rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than:- (a) a fine of one hundred rupees in the case of conviction for the first offence; and (b) imprisonment of one month and a fine of two hundred and fifty rupees, in the case of conviction for second or subsequent offence.

146. Obstructing railway servant in his duties:- If any person willfully obstructs or prevents any railway servant in the discharge of his duties, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.”

13. For better understanding, it is apposite to extract Sections 353, 354, and 506 IPC, which were registered in C.C.No.219 of 2019 which read as under:

“353. Assault or criminal force to deter public servant from discharge of his duty.—Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person to the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

354. Assault or criminal force to woman with intent to outrage her modesty.—Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will there by outrage her modesty, 1[shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine].

503. Criminal intimidation.—Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

506. Punishment for criminal intimidation.—Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

14. It is the contention of the learned counsel for the Petitioner that the Petitioner was suffering from Mania with Psychosis at the relevant time and he was unable to understand as to what had happened at that time. Further, when the Petitioner was produced for remand, the learned Magistrate refused to grant remand as the Petitioner was suffering from mental illness and copies of his medical record is filed.

15. Mere filing of a photocopy of the medical record before this Court, is not sufficient to satisfy this Court to exercise the jurisdiction under Section 482 Cr.P.C. This Court cannot take any view as to the truth or otherwise of the contentions raised by the Petitioner that he was mentally imbalanced at the time of the alleged incident and that he does not even know whether he traveled in that train at the relevant point of time. On the other hand, it is alleged that the Petitioner was de-trained at Rajahmundry Railway station.

16. Further, perusal of the ingredients of Sections of Law and the contents of the charge sheets in both the cases would clearly show that there are specific allegations levelled against the Petitioner. The contentions of the learned counsel for the Petitioner with regard to the mental health of the Petitioner is the factual aspect to be decided during trial. However, there is some force in the argument that, for the self-same incident, second FIR is not maintainable since it is hit by Section 162 Cr.P.C. Such being the case, whatever evidence is collected relating to second FIR should be added to the case relating to first FIR.

17. Coming to the facts of the present case, two crimes, which have been registered relating to the alleged incident, would disclose distinct offences. Railway Protection Force is not authorized to register the cases under Indian Penal Code. At the same time, GRP are not authorized to register and investigate the cases relating to the offences under Railways Act. Allegations made in the above two cases *prima facie* disclose separate and distinct offences, as such, the second FIR is not hit by Section 162 Cr.P.C.

18. This Court does not find any force in the contention of the Petitioner that he was mentally imbalanced and he was not in a position to understand the consequences of his acts. Unless it is decided about the mental status of the Petitioner, this Court cannot exercise the jurisdiction under Section 482 Cr.P.C. Further, for the very same incident, a case in Crime No.13 of 2018 on the file of Bhimavaram Railway Police Station was registered for the offences under Sections 354, 353, 506 IPC and another Crime No.506 of 2018 was also registered by the Post Commander/ RPF/Rajahmundry for the offences under Sections 137, 145 (b) and 146 of the Act and charge sheets have also been filed against the Accused.

19. For the self-same incident, Railway Police, Bhimavaram and Rajahmundry have registered two crimes and after due investigation two separate charge sheets have been filed and the same are pending before the Railway Courts. Since both the cases are arising out of the same incident and one is registered for IPC offences and the other is for the offences under Railways Act, it is desirable to conduct simultaneous trial in both the cases.

However, it is made clear that this Court has not expressed its view by touching the merits of the case. The Petitioner is at liberty to place such material before the trial Court to decide the truth or otherwise of the contentions raised by the Petitioner.

20. Therefore, this Court concludes that the allegations made against the Petitioner, in the above two cases, are sufficient enough for the trial to be taken up and thereby, and the proceedings against the Petitioner in both the cases are not advisable to be quashed and hence, the petitions deserves to be dismissal.

21. Without prejudice to the defences available, the Criminal Petition Nos.5261 of 2019 and 5864 of 2020 are dismissed. Learned II Additional Metropolitan Magistrate for Railways, Vijayawada is directed to conduct simultaneous trial in C.C.No.428 of 2018 and C.C.No.219 of 2019 and dispose of the same as expeditiously as possible.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE VENKATA JYOTHIRMAI PRATAPA

Date:10.05.2024

Dinesh

HON'BLE SMT. JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION Nos.5261 OF 2019 AND
5864 OF 2020

Dt.10.05.2024

Dinesh

IN THE HIGH COURT OF ANDHRA PRADESH, AMARAVATI

CRIMINAL PETITION Nos.5261 OF 2019 AND 5864 OF 2020

CRIMINAL PETITION No.5261 OF 2019

Between:

YEDLA SATHEESH, S/O. GANGA RAJU, STM/COACHING/SPECIAL/HQS,
RAIL NILYAM, SECUNDERABAD R/O. FLAT NO 623/4, RAIL NILAYAM
COLONY, BESIDE RAIL NILAYAM, SECUNDERABAD 500071

...PETITIONER/ACCUSED

AND

1. POST COMMANDER, RPF/RAJAHMUNDRY
2. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI.

...RESPONDENT/COMPLAINANT(S):

CRIMINAL PETITION No.5864 OF 2020

Between:

YEDLA SATISH, S/O. GANGA RAJU AGED ABOUT 35 YEARS, OCC
RAILWAY EMPLOYEE R/O. H. NO. 623/4, OFFICERS BANGLAW, RAIL
NILAYAM COLONY, SECUNDERABAD

...PETITIONER/ACCUSED

AND

1. N RAMAIAH, S/O. CHINA KONDAIAH AGED ABOUT 49 YEARS, OCC
RAILWAY EMPLOYEE, RAJAMUNDRY RAILWAY PROTECTION FORCE,
RAJAMUNDRY, EAST GODAVARI, A.P
2. THE STATE OF ANDHRA PRADESH, THROUGH S.H.O., P.S.,
BHIMAVARAM RLY P.S., REP.BY ITS PUBLIC PROSECUTOR, HIGH
COURT OF JUDICATURE AT AMARAVATI.

...RESPONDENT/COMPLAINANT(S):

DATE OF JUDGMENT PRONOUNCED: **10.05.2024**

SUBMITTED FOR APPROVAL:

THE HON'BLE SMT. JUSTICE VENKATA JYOTHIRMAI PRATAPA

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|----|--|--------|
| 1. | Whether Reporters of Local Newspapers
may be allowed to see the judgment? | Yes/No |
| 2. | Whether the copies of judgment may be
marked to Law Reporters / Journals? | Yes/No |
| 3. | Whether Her Lordship wish to
see the fair copy of the Judgment? | Yes/No |

JUSTICE VENKATA JYOTHIRMAI PRATAPA

*** THE HON'BLE SMT.JUSTICE VENKATA JYOTHIRMAI PRATAPA**

+ CRIMINAL PETITION Nos.5261 OF 2019 AND 5864 OF 2020

% 10.05.2024

CRIMINAL PETITION No.5261 OF 2019

Between:

YEDLA SATHEESH, S/O. GANGA RAJU, STM/COACHING/SPECIAL/HQS,
RAIL NILYAM, SECUNDERABAD R/O. FLAT NO 623/4, RAIL NILAYAM
COLONY, BESIDE RAIL NILAYAM, SECUNDERABAD 500071

...PETITIONER/ACCUSED

AND

1.POST COMMANDER, RPF/RAJAHMUNDRY
2.THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS PUBLIC
PROSECUTOR, HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI.

...RESPONDENT/COMPLAINANT(S):

CRIMINAL PETITION No.5864 OF 2020

Between:

YEDLA SATISH, S/O. GANGA RAJU AGED ABOUT 35 YEARS, OCC
RAILWAY EMPLOYEE R/O. H. NO. 623/4, OFFICERS BANGLAW, RAIL
NILAYAM COLONY, SECUNDERABAD

...PETITIONER/ACCUSED

AND

1.N RAMAIAH, S/O. CHINA KONDAIAH AGED ABOUT 49 YEARS, OCC
RAILWAY EMPLOYEE, RAJAMUNDRY RAILWAY PROTECTION FORCE,
RAJAMUNDRY, EAST GODAVARI, A.P
2.THE STATE OF ANDHRA PRADESH, THROUGH S.H.O., P.S.,
BHIMAVARAM RLY P.S., REP.BY ITS PUBLIC PROSECUTOR, HIGH
COURT OF JUDICATURE AT AMARAVATI.

...RESPONDENT/COMPLAINANT(S):

! Counsel for Petitioner : Sri N.Ravi Prasad

^ Counsel for Respondents : Sri Y.V.Anil Kumar for R.1
Ms.D.Prasanna Lakshmi,
Assistant Public Prosecutor for R.2

< Gist:

> Head Note:

? Cases referred: ----

This Court made the following: