

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

CRIMINAL PETITION NO.621 OF 2022

BETWEEN

Guniganti Ravinder Rao,
S/o.Late G.Venkat Rao, aged about 60 years,
Occ: Business,
R/o.Flat No.201, Plot NO.31011, Ayyappa Society,
Madhapur, Hyderabad & another
... Petitioners/Accused 1 & 2

And

Sunil Kumar bontha, S/o./B.Damodar Rao,\
Aged about 46 years, Occ:Executive Director,
R/op.Fl;at No.B-1302, My Home Abhra,
Inorbit mall road, Gachibowli, Hyderabad
& another.
... Respondents

Date of Judgment Pronounced: **13.09.2022**

SUBMITTED FOR APPROVAL:

THE HONOURABLE Dr.JUSTICE CHILLAKUR SUMALATHA

1. Whether Reporters of Local newspapers may (Yes/No)
be allowed to see the Judgments?
2. Whether the copies of judgment may be (Yes/No)
marked to Law Reports/Journals?
3. Whether their Lordship/ Ladyship wish to (Yes/No)
see the fair copy of the Judgment?

Dr.JUSTICE CHILLAKUR SUMALATHA

*** THE HON'BLE Dr.JUSTICE CHILLAKUR SUMALATHA**

+ CRIMINAL PETITION NO.621 OF 2022

% Dated 13-09-2022

Guniganti Ravinder Rao,
S/o.Late G.Venkat Rao, aged about 60 years,
Occ: Business,
R/o.Flat No.201, Plot NO.31011, Ayyappa Society,
Madhapur, Hyderabad & another

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Aged about 46 years, Occ:Executive Director,
R/op.Fl;at No.B-1302, My Home Abhra,
Inorbit mall road, Gachibowli, Hyderabad
& another.

... Respondents

! Counsel for Petitioners: Sri T.S.Anirudh Reddy

^ Counsel for respondent No.1:Sri Avinash Desai

Counsel for respondent No.2: Sri Khaja Vizarath Ali

<GIST:

> HEAD NOTE:

? Cases referred

¹ (2005) 13 Supreme Court Cases 540

² (1992) 3 SCC 317

³ 1992 SCC (Crl.) 426

THE HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA
CRIMINAL PETITION No. 621 OF 2022

ORDER:-

1. Seeking the court to quash the proceedings that are initiated against the petitioners who are arrayed as Accused Nos. 1 & 2 in Crime No. 720 of 2021 of Raidurgam Police Station, the present Criminal Petition is filed.
2. Heard the learned counsel for the petitioners, learned counsel for Respondent No. 1 as well as the learned Assistant Public Prosecutor representing the Respondent No.2.
3. On the ground that the petitioners have committed offences punishable under Sections 468, 506, 384 r/w 511 IPC, a case was registered against them.
4. Making his submission, learned counsel for the petitioners contends that the petitioners are innocent and they were falsely implicated in the criminal case. Learned counsel states that the 1st petitioner is the Director and Shareholder of Ridhima Estate Pvt. Ltd., which is engaged in providing Real Estate Marketing Services and the 2nd petitioner, who is the nephew of 1st petitioner, is also

associated with the said Company. Respondent No. 1 is the Executive Director of a Company by name P.R.G. Buildcon India Private Limited. The 1st respondent is the relative of one Mr. Prabhakar Rao Gunaganti. The said Prabhakar Rao Gunaganti is the elder brother of the 1st petitioner. Prabhakar Rao Gunaganti is the owner of about 30 Villas in Pristine Estates, a gated community. The 2nd petitioner was approached for marketing and selling of those Villas and accordingly, the 2nd petitioner assigned his services through the 1st petitioner's company. The 2nd petitioner sold seven (7) Villas and for the services provided, an invoice for Rs. 3,64,03,000/- was raised in the name of Prabhakar Rao Gunaganti. Respondent No. 1 was contacted in respect of the said financial transaction upon the instructions of Prabhakar Rao Gunaganti. The invoice raised was sent to Respondent No. 1. On sending the said invoice which stands in the name of Prabhakar Rao Gunaganti, Respondent No. 1 raised dispute and gave a false complaint to Police. Learned counsel states that a bare perusal of the said complaint makes it abundantly clear that no offence is made out. Learned counsel also

states that neither the ingredients of Sections 468, 506 and 384 IPC nor any other offences can be presumed to have been committed by the contents of the complaint itself and therefore, the petitioners approached this Court seeking to quash the proceedings.

6. Opposing the submission thus made, the learned counsel for the 1st Respondent contends that the petitioners forwarded a mail intimidating the 1st respondent and further, they, in their mail, also made a threatening statement of involving Income Tax Department and indeed, there are no transactions that went on between the petitioners and the 1st respondent. However, a huge sum of more than Rs.3 crores was demanded from the 1st respondent and hence, aggrieved by the threatening mail that was forwarded, the 1st respondent gave a complaint to Police and hence, the proceedings are liable to be continued. The submission of the Learned Assistant Public Prosecutor is that the invoice in question is created and the investigation is pending.

7. The contents of the complaint are that the first respondent is working as an Executive Director with P.R.G.

Buildcon India Private Limited and Ridhima Priston Estates is the company involved in real estate business. The first petitioner, being the Director of Ridhima Estates Private Limited, is threatening the 1st respondent and is forcibly trying to extract Rs. 3,64,03,000/- from him. The 1st respondent has not given any agreement or there are no transactions with Ridhima Estate Private Limited or his associates. On 13-11-2021, the 1st respondent received a mail from the 1st petitioner stating that he provided services to him for which he raised an invoice for an amount of Rs. 3,64,03,000/-. On receiving the said mail, a reply mail was sent about the illegal and fraudulent invoice raised by the 1st petitioner and explaining him about non-entering into any agreement. The 1st petitioner prepared fraudulent invoice and thus, legal action has to be taken against him and also against the 2nd petitioner for threatening him and planning to extract money from him.

8. The above averments as per the submission of the learned counsel for the petitioners may form basis for initiation of any proceedings on civil side, but not for initiation of proceedings on criminal side. However,

making a submission that when investigation is not complete, it is impermissible for the High Court to quash the proceedings, learned counsel for the 1st respondent relied upon the decision of the Hon'ble Apex Court in case between the **STATE OF ORISSA AND ANOTHER V/S SAROJ KUMAR SAHOO**¹, wherein the Court at Para 14 of the order held as follows:-

*“14. It is to be noted that the investigation was not complete and at that stage it was impermissible for the High Court to look into materials, the acceptability of which is essentially a matter for trial. While exercising jurisdiction under Section 482 Cr.P.C., it is not permissible for the Court to act as if it was a trial Court. Even when charge is framed at that stage, the Court has to only prima facie be satisfied about the existence of sufficient ground for proceeding against the accused. For that limited purpose, the court can evaluate material and documents on records but it cannot appreciate evidence. The Court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused. In **Chand Dhawan v.Jawahar Lal**², it was observed*

¹ (2005) 13 Supreme Court Cases 540

² (1992) 3 SCC 317

that when the materials relied upon by a party are required to be proved, no inference can be drawn on the basis of those materials to conclude the complaint to be unacceptable. The Court should not act on annexures to the petitions under Section 482 Cr.P.C., which cannot be termed as evidence without being tested and proved.”

9. A perusal of the relevant material on record reveals the following facts:-

The first petitioner, on 01-11-2021, had sent a mail to the 1st respondent and also to Prabhakar Rao Gunaganti which is as under:-

“Dear Sunil,

Praveen Kumar Guniganti informed me that you are taking care of Prabhakar Rao’s personal accounts and I should send you this invoice.

I do not have your personal e-mail ID. So, Im sending it to your company ID..

-Ravinder Rao G.”

For the said mail, a reply mail was sent by the 1st respondent on 05-11-2021 which reads as under:-

“To

Mr.G.Ravinder Rao

Ridhima Estates Private Limited

I am surprised to receive claims for an amount of Rs.36,403,000 for service charges. Dr.G.Prabhakar Rao or me have never entered into any agreement either with G.Praveen Kumar or you. Hence, raising a tax invoice fraudulently is illegal and arbitrarily. So, you withdraw tax invoice with immediate effect or otherwise- we will be forced to take necessary action in this regard and you will be liable for any consequences.

B.Sunil.”

10. The 1st petitioner thereafter, i.e. on 07-11-2021, has sent another mail which reads as follows:-

“Dear Sunil Bontha,

Please go through my first e-mail and invoice.

Did I ever said that we have provided service to you, or that we sold your Villas in Pristine. I sent the invoice to you because Praveen Kumar told me that you take care of accounts of Dr.Guniganti Prabhakar Rao.

Yes, we do have an agreement with the owner of the Villas and we have enough documentation and

may even some voice recordings with you to prove our point and invoice.

If you are still not satisfied, please proceed with legal action. Please make Income Tax Dept a party in this matter. IT Dept. will surely appreciate to see how much cash did you collect on behalf of the owner from the Villa purchasers.

-Ravinder Rao G.”

11. When the contents of the complaint and the averments in the aforementioned mails are gone through, this Court finds justification in the submission of the learned counsel for the petitioners that the dispute is more civil in nature. In the last mentioned mail, i.e. the mail dated 07-11-2021, the 1st petitioner has only requested to make Income Tax Department a party to the matter and also stated that Income Tax Department will surely appreciate to see how much cash was collected on behalf of the owner from the Villa purchasers. This does not mean that the 1st respondent was threatened in the name of Income Tax Department.

12. Law is more than well settled that when the matter is essentially of civil nature, a clock of criminal offence should not be given. Also, it is time and again reiterated that the criminal proceedings should not form a short cut method for other remedies, more particularly, civil remedies that are available under law. Also, in the case between the **State of Haryana Vs. Bhajan Lal**³, the Hon'ble Apex Court has clearly held that where the allegations made in the First Information Report or the complaint, even if they are taken at their face value, does not *prima facie* constitute any offence, the Court is well empowered to quash the proceedings exercising power granted under Section 482 Cr.P.C.

13. In the case on hand, as earlier discussed, this Court finds that the dispute is more civil in nature. The contents of the complaint itself goes to show that basing on an invoice raised, a mail was sent requesting the first respondent to pay certain amount. In case the 1st respondent is not at liability to pay the said amount, he has to indicate his reasons and deny payment of amount.

³ 1992 SCC (CrI.) 426

But initiation of criminal proceedings is undesirable. Further, as rightly submitted by the learned counsel for the petitioners, the contents of the complaint does not make out atleast a *prima facie* case for initiation of criminal proceedings against the petitioners.

14. Therefore, this Court is of the view that paving way to continue the proceedings would certainly amount to abuse of process of law. Hence this Court considers desirable to quash the proceedings.

15. Resultantly, the Criminal Petition is allowed. The proceedings that are initiated against the petitioners in Crime No. 720 of 2021 of Raidurgam Police Station, are hereby quashed.

16. As a sequel thereto, miscellaneous petitions, if any pending, shall stand closed.

Dr. JUSTICE CHILLAKUR SUMALATHA

Dt.13-09-2022

Note: LR copy to be marked

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Dr.CSL,J
Crl.P.NO.621 of 2022

THE HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

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