

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
TUESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND TWENTY TWO



:PRESENT:

THE HONOURABLE SRI JUSTICE D RAMESH

CRIMINAL PETITION NO: 1026 OF 2022

Between:

1. G.V.K.Industries Limited, Having its registered office at Plot No.10, Paigah Colony, SP Road, Secunderabad -500003, Represented by its authorized Signatory Mr. T. Ravi Prakash
2. Dr. G.V. Krishna Reddy, S/o Late Sri Subbarami Reddy, aged about 84 years, R/o H.No. 6-3-250, Road No.1, Banjara Hills, Hyderabad-500034
3. G.V. Sanjay Reddy, S/o Dr. GVK Krishna Reddy, aged about 58 years R/o H.No. 6-3-250/4, Road No.1, Banjara Hills, Hyderabad-500034
4. Mr. Ramanathan Krishnan, S/o Late Sri B.S. Krishnan, aged about 63 years, R/o C14 Mahindra Park, LBS Marg, Ghatkopar West, Mumbai-400086, Maharashtra
5. Mr. John Fernandez, S/o Mr. Lawrence Fernandez, aged 63 years, R/o 1405, AbhimanTexas, Bendoor, Mangalore-575002, Karnataka,

...Petitioners

AND

1. Sri Thummala Venkata Suryanarayana Murthy, S/o Bhanu Chandra Gandhi, aged about 54 years, Superintendent Engineer (Operations), APEPDCL, Godawari Bund, Rajamahendravaram, East Godavari District, Andhra Pradesh-533 101.

...Defacto Complainant/Respondent No.1

2. The State of Andhra Pradesh, through the Station House Officer, Kadiam Police Station, East Godavari District, Represented by the Public Prosecutor, High Court of Andhra Pradesh at Amaravati – 522237.

Complainant/Respondent No.2

Petition filed under Section 482 of Cr.P.C, praying that in the circumstances stated in the memorandum of grounds filed in support of the Criminal Petition, the High Court may be pleased to quash the entire proceedings in Crime No.166 of 2021 of P.S., Kadiam, East Godavari District, Andhra Pradesh.

IA NO: 1 OF 2022

Petition filed under Section 482 of Cr.P.C praying that in the circumstances stated in the memorandum of grounds filed in support of the Criminal petition, the High Court may be pleased to stay all further proceedings including arrest of the Petitioners

herein Crime No. 166 of 2021 of P.S. Kadium, East Godavari District, Andhra Pradesh Pending disposal of CRLP 1026 of 2022, on the file of the High Court.

The petition coming on for hearing, upon perusing the Criminal Petition and the memorandum of grounds filed in support thereof and upon hearing the arguments of Sri D. Prakash Reddy, appearing on behalf of the Sri B. Nalin Kumar, Advocate for the Petitioner(s), and of Assistant Public Prosecutor for the Respondent No.2, the Court made the following;

ORDER:

“Learned counsel for the petitioners submitted that the petitioners are accused in Cr.No.166 of 2021 of Kadium Police Station, East Godawari District registered for the offences under sections 420 and 403 read with 34 of IPC, on the complaint, referred by the Court, filed by the 1st respondent/defacto complainant.

Originally the 1st respondent made complaint on 20.10.2020 to the police, but the same was not taken up by the police, then he made a private complaint on the file of VII Additional Judicial First Class Magistrate at Rajamahendravaram and the same was forwarded to the Station House Officer, Kadium Police Station for investigation u/s.156(3) of Cr.P.C. by the said court, vide its order dated 15.04.2021.

Learned Senior Counsel, Sri D.Prakash Reddy, appearing on behalf of the petitioners submitted that the very complaint is baseless, which cannot be taken into consideration by the VII Additional Judicial First Class Magistrate, Rajamehndravaram and it should not be taken into cognizance.

The contents of the complaint are nothing but reproduction of the complaint, which was filed before the Electricity Regulatory Commission by way of O.P.No.59 of 2021 arose out of the agreements dated 18.02.2016 and 22.04.2016. In fact, the petitioners have entered in PPA agreement way back in the year 1993, based on the terms and conditions of the PPA Agreement, all the present agreements were entered into in the year 2016.

After notice, the petitioners have also filed their response before the A.P. Electricity Regulatory Commission, when such proceedings are pending, the court below ought not have entertained the complaint made by the defacto complainant, which is contrary to the observations of the Hon'ble Apex Court, so also under the enforcement clauses of the agreements, appropriate remedies are available and once knocking the doors of the competent authorities, the question of entertaining the present private complaint is barred.

Learned Assistant Public Prosecutor appearing for the State has submitted that based on the orders of the VII Additional District Judge, the police authorities instigated the matter and registered F.I.R. In fact, as per the clause of the agreement if any violations are there, the respondents are entitled to take penal action against the petitioners. Apart from that as per the observation of the Hon'ble Apex Court in *Medchal Chemicals and Pharma (P) Ltd Vs. Biological*

E.Ltd. and Others¹, wherein it is held that both civil and criminal remedies can be proceeded simultaneously and there is no bar.

Considering the above submissions and on perusal of the entire material on record, there shall be stay of all the proceedings against the petitioners, pursuant to Crime No.166 of 2021 of Kadiam Police Station, East Godavari District, for a period of eight (08) weeks.

Post after four (04) weeks.

Meanwhile, respondents are directed to file their counters. "

//TRUE COPY//

Sd/-V.Satyanarayana
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The VII Additional Judicial First Class Magistrate at Rajamahendravaram, East Godavari District.
2. The Station House Officer, Kadiam Police Station, East Godavari District.
3. Sri Thummala Venkata Suryanarayana Murthy, S/o Bhanu Chandra Gandhi, Superintendent Engineer (Operations), APEPDCL, Godawari Bund, Rajamahendravaram, East Godawari District, Andhra Pradesh-533 101. (by RPAD)
4. One CC to Sri. B. Nalin Kumar, Advocate [OPUC]
5. Two CCs to PUBLIC PROSECUTOR, High Court of Andhra Pradesh [OUT]
6. One spare copy

VD

HIGH COURT

DRJ

DATED:22/02/2022

NOTE: POST AFTER FOUR (04) WEEKS

ORDER

CRLP.No.1026 of 2022



STAY