



IN THE HIGH COURT OF ANDHRA PRADESH: AT AMARAVATI

Criminal Petition No.4964 of 2021

Bandi Parasuramudu @ Bandi Parushuramudu,
S/o. B.Musalanna, Aged 39 years, Occ: Business,
R/o. B.Yaleru Village, Atmakur Mandal, Anantapur District
... Petitioner/Accused No.9

Vs.

1. The State of Andhra Pradesh,
(Through SHO, Atmakur Police Station),
Rep. by its Public Prosecutor,
High Court of Andhra Pradesh
2. The Sub Inspector of Police (SHO),
Atmakuru Police Station, Atmakur, Anantapur District
... Respondents

JUDGMENT PRONOUNCED ON : 03-9-2021

HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

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|---|--|-----|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | --- |
| 2 | Whether the copies of judgment may be marked to Law Reports/Journals | Yes |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes |

CHEEKATI MANAVENDRANATH ROY, J.



*** HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**

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! Counsel for the Petitioner: Sri K.M. Krishna Reddy

Counsel for Respondents 1&2: Public Prosecutor

< Gist:

> Head Note:

? Cases referred:
Nil.



THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY
CRIMINAL PETITION No.4964 of 2021

ORDER:-

This Criminal Petition under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") is filed seeking quash of F.I.R in Crime No.45 of 2020 of Atmakur Police Station, Anantapur District, registered under Section 107 Cr.P.C.

Heard learned counsel for the petitioner and learned Additional Public Prosecutor appearing for respondents 1 and 2.

It is a strange case where the 2nd respondent – Station House Officer of Atmakur Police Station registered F.I.R in Crime 45 of 2020 under Section 107 Cr.P.C.

Chapter VIII of Cr.P.C deals with security for keeping the peace and good behavior. It contains Sections 106 to 124. Section 107 thereof speaks that on receipt of information that any person is likely to commit breach of peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of peace or disturb the public tranquility, the Executive Magistrate, who is of opinion that there is sufficient ground for proceeding, he may require the said person to show cause as to why he should not be ordered to execute a bond for keeping the peace for such period, not exceeding one year, as the Magistrate may think fit in the facts and circumstances of the case. The Executive Magistrate is required to pass an order under Section 111 Cr.P.C in writing, setting forth the substance received by him and the amount of the bond to be executed etc. Thereafter, certain procedure is prescribed under Section 116 Cr.P.C to cause inquiry and



ultimately an order is required to be passed under Section 117 Cr.P.C. Therefore, in the scheme of Cr.P.C, considering the object of the provisions enacted in Chapter VIII of Cr.P.C, it is now clear that the said proceedings are not penal in nature and are only preventive in nature, which are to be initiated to prevent possible breach of peace or disturbance of public tranquility. Therefore, it is not contemplated under law that an F.I.R is required to be registered to initiate the said proceedings. It is not an offence for which the F.I.R is to be registered.

A reading of Section 154 Cr.P.C makes it manifest that only when the information that is furnished to the police discloses commission of a cognizable offence, then only police are required to register an F.I.R under Section 154 Cr.P.C and investigate the case. Even in a case relating to non-cognizable offence, the police have to first obtain prior permission from the concerned Magistrate and register an F.I.R and then proceed according to law. So, basically the law contemplates registration of F.I.R only when the information discloses commission of a cognizable offence. The information relating to likelihood of committing breach of peace or disturbance of public tranquility does not relate to any commission of offence under any provision of Indian Penal Code. Therefore, no F.I.R for the proceedings relating to Section 107 Cr.P.C is required to be registered.

Oblivious of the said fundamental principles of law, to the utter surprise of this Court, the 2nd respondent - Station House Officer registered an F.I.R in the above Crime No.45 of 2020 under Section 107 Cr.P.C. The said registration of F.I.R under Section



107 Cr.P.C is *ex facie* illegal on the face of it and it is clearly unsustainable under law. So, it is liable to be quashed.

Before parting with the case, it needs a mention that this Court is coming across several cases where police in the State of Andhra Pradesh have been registering F.I.Rs. for the proceedings relating to Sections 107 and 145 Cr.P.C. Therefore, it is high time to give a necessary direction to the authorities at the helm of affairs to take steps to curb such practice of registering F.I.Rs under Sections 107 and 145 Cr.P.C. Therefore, the Director General of Police of State of Andhra Pradesh shall take necessary steps in this regard to instruct the Station House Officers of all Police Stations in the State that F.I.R cannot be registered for the proceedings under Sections 107 and 145 Cr.P.C.

In view of the above discussion, the Criminal Petition is allowed and the aforesaid F.I.R in Crime No.45 of 2020 of Atmakur Police Station, Anantapur District, registered under Section 107 Cr.P.C, is hereby quashed.

Miscellaneous petitions, if any pending, in the Criminal Petition, shall stand closed.

JUSTICE CHEEKATI MANAVENDRANATH ROY

Date: 03.09.2021

Note:

1. Registry shall mark a copy of the order to the Director General of Police, Andhra Pradesh.
2. L.R. Copy to be marked.

B/o
AKN



THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

CRIMINAL PETITION No.4964 of 2021

Date: 03-09-2021

AKN