

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

Criminal Petition No.11872 OF 2016

Between:

Mr.Vuppala Manga Raju

... Petitioner/Accused

And

1. V.S.T.Industries Ltd. Rep.by its Authorized
Signatory Mr.Nitesh Bakshit,
S/o.Dr.U.K.Bakshit.

2. The State of Telangana,
Rep. by its Public Prosecutor,
High Court for the State of Telangana
and another.

... Respondents/Complainant

DATE OF JUDGMENT PRONOUNCED: 22.11.2023

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

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

K.SURENDER, J

*** THE HON'BLE SRI JUSTICE K. SURENDER**

+ CRL.P. No. 11872 of 2016

% Dated 22.11.2023

Mr.Vuppala Manga Raju

... Petitioner/Accused

And

\$ 1. V.S.T.Industries Ltd. Rep.by its Authorized
Signatory Mr.Nitesh Bakshit,
S/o.Dr.U.K.Bakshit.

2. The State of Telangana,
Rep. by its Public Prosecutor,
High Court for the State of Telangana
and another.

... Respondents/Complainant

! Counsel for the Petitioner: Sri Chetluru Sreenivas

^ Counsel for the Respondents: Sri T.Vijaya Kumar Reddy for R1
Sri S.Sudershan
Additional Public Prosecutor for R2

>HEAD NOTE:

? Cases referred

1. 2013 CRI.L.J.1602
2. 2022 Cri.LJ.2769
3. AIR 1972 SC 2609
4. MANU/AP/0414/2015

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No. 11872 OF 2016****ORDER:**

This Criminal Petition is filed by the petitioner/Accused, to quash the proceedings in C.C.No.308 of 2016 on the file of IX Additional Chief Metropolitan Magistrate, Metropolitan City Criminal Courts at Hyderabad. The offences alleged against the petitioner are under Sections 500 and 506 of the Indian Penal Code.

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the respondent-State.

3. The Company V.S.T.Industries Limited represented by its signatory Mr.Nitesh Bakshit filed complaint for commission of the offence of defamation by the petitioner herein. It is stated in the complaint that the petitioner was distributor of the products of the complainant company. Since orders were not placed, the Company terminated the petitioner as Distributor on 01.06.2015. After termination by the Company, the petitioner allegedly threatened the Distributors who were subsequently appointed and also sent mails and communication which are defamatory to the Company and its employees. The defamation according to the Company is the communication by the petitioner.

4. On the basis of the complaint filed, the learned Magistrate recorded the evidence of Nitesh Bakshit and has taken cognizance under Section 500 of the Indian Penal Code, only. The learned Magistrate found that no offence was made out under Section 506 of the Indian Penal Code. Imputations allegedly made by this petitioner are germane for considering the case, which are extracted herein;

“a) Please let me know the contact details of VST distributors near your areas, who are not in this group. Please post the details, so that it will be easy to add them in our group.

b) This is a sample point which was have mentioned in this letter. I am having all the details from day 1 to till day, how they harassed me and tried to cheat a distributor. Nobody knows the fact what was happening. All kinds of proofs like SMS, Mails, Call records. If I am wrong, how can I send this kind of mail to company secretary! Also notice that some of Distributors, including myself having differences in invoicing system and also claims.

c) RM and CM have played this conspiracy. They blocked my account and threatened me.

d) Good Morning Distributors, kindly send mails to provide the agreement copies for the confirmation that you are a Distributor for the company in your respective areas. So that it will be safe for your business and also to your family. As we are investing huge capitals, in future you may not face any problem like me which I am facing now also it will help to run a healthy business, I advise you once again to take the matter serious. These are the mail id's of higher officials, send a mail to confirm that you are a Distributor. No need to send to all the mail ids. It is enough to send to rmsouthcentral@vstind.com.

e) Kindly send mails to the mail ids provided below to get the arrangements online itself. Please mention the areas and details which are under your control now. So that it will be very safe and useful to you in future.

whistleblower@vstind.com

ccd@vstind.com

investors@vstind.com

f) Did they give any written commitment to sale the product for a particular price? Then why should we sale the product for fixed price!! This shows that as a Distributor or a dealer we are maintaining a system!!! Whereas these people are not....! Then where is the security for our investment.

g) I understood that these people want to close this issue within there circle! They don't want to put in the higher notice. Because they do have some mistakes in handling RM. Really it's a shame on their part for not allowing me sit with the Chairman and all the Board Members.

h) Even they have no guts to answer my question! It's a shame on them.

i) If at all I would like to ask President of India to pass an order to CBI to investigate this issue. Because on only one reason, we are believing these people without any written commitment. At the same time, they should be perfect, dedicated, honestly with the investors. Blackmailing, threatening, playing games with the investors are not correct. How can you believe them. Today it happened to me, next what about you?????

j) These people should really feel shame! Unsystematic, worst persons! Begin a big company, they don't have account statement copies.

k) They behave as if they are very sincere, but they are most worst, nasty persons!"

l) As I am aware of all the cunning plans and as well as scams as mentioned below of Mr.Pavan Kumar Reddy (RM), he has created this issue personal without any reason.

. With help of Gajuwaka Distributor (Devi Agencies) at the time of price change in the your 2012, they sold 100 cases of cigarettes in grey market which is in the knowledge of local Market Supervisor also.

. Scams are made at the launch of every new brand (Dark Knight, Editions etc.)

. Scam in Nellore Circle (Major Scam)

. Scam in Matches Box etc.

m) Being a Secretary to such a prestigious company, don't you feel shame for sitting quiet without solving the issue from past 10 months. First you should be genuine.

n) Remaining calm and not taking action on your favourite Mr.Pavan Kumar Reddy (RM) and Mr.Sujit Kumar (CM) projects that you are also not a perfect personality and might have involved in the scams.”

5. Learned counsel appearing for the petitioner would submit that *per se* there is no defamation that is caused by the communication of the petitioner. He had grievance with the Regional Manager-Mr.Pavan Kumar Reddy and Chief Manager-Mr.Sujit Kumar. Nothing is stated against the company for which reason the company cannot file the complaint.

6. Learned Counsel relied on the Judgment rendered by the High Court of Andhra Pradesh in ***B.R.K.Murthy v. State of A.P. through the Public Prosecutor***¹. He also relied on the Judgment of High Court of Madras in ***Subhiksha Trading Services Limited and another v. Azim H.Premji***². Further he relied on the Judgment of Honourable Supreme Court in ***G.Narasimhan, G.Kasturi and K.Gopalan and others v. T.V.Chokkappa***³ and the Judgment rendered by this Court in ***Devireddy Venkat Reddy v. Bankarupanda Padmavathi and others***⁴.

¹ 2013 CRILJ.1602

² 2022 Cri.LJ.2769

³ AIR 1972 SC 2609

⁴ MANU/AP/0414/2015

7. On the other hand learned counsel appearing for the 1st respondent would submit that the Magistrate had given adequate reasons for taking cognizance against the petitioner. It is a question of trial to decide regarding the complicity or otherwise of the petitioner since it is *prima facie* established that the communication amounts to a deliberate act to defame the company.

8. As seen from the communication nowhere the petitioner had stated anything against the Company. In fact, he refers to the Company as a prestigious company. The petitioner had grievance with the functioning of the employees namely Pavan Kumar Reddy-RM and Sujith Kumar-CM.

9. It is alleged that the said persons have indulged in scams by colluding with some distributors. The petitioner has stated that he was cheated by the Regional Manager and Chief Manager by entering into a conspiracy and ensured that his distributorship was cancelled.

10. It amounts to defamation when a person either by words spoken or intended to be read, publishes any imputation concerning such person, knowing that such imputation will harm his reputation.

11. The grievance of the petitioner is that the Regional Manager-Pavan Kumar and Chief Manager-Sujith Kumar were responsible for termination of his being distributorship and they were involved in acts causing loss to the Company. In fact, in the communication, the petitioner stated that the Company is a prestigious Company.

12. Specifically making aspersions against individuals in a company and accusing such persons who are incharge of the affairs of the Company for conducting themselves resulting in loss to the Company, will not amount to any kind of insinuation against the company itself. The communication is specifically directed towards the Regional Manager-Mr.Pavan Kumar Reddy and Chief Manager-Sujit Kumar of the Company. In the said circumstances it cannot be said that the Company has been defamed. The grievance if any would be in the personal capacity of the said persons namely Mr.Pavan Kumar Reddy-Regional Manager and Mr.Sujit Kumar-Chief Manager.

13. The Company when not defamed cannot espouse the cause of its employees to file a private complaint for defamation. The person defamed only can approach the Court and file a complaint. The communication clearly refers to the Regional Manager and Chief Manager doing illegal acts, as such, it is for them in their individual

capacity to lodge a complaint. Since there is nothing in the communication which defames the Company as a whole, the proceedings initiated by the Company cannot be allowed to continue.

14. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioner in C.C.No.308 of 2016 on the file of IX Additional Chief Metropolitan Magistrate, Metropolitan City Criminal Courts at Hyderabad, are hereby quashed.

Miscellaneous applications pending, if any, shall stand closed.

K.SURENDER, J

Date: 22.11.2023

Note: LR copy to be marked.

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