

(2010) 04 AP CK 0002

Andhra Pradesh High Court

Case No: Writ Petition No. 21149 of 2009

Vankina
Chamudeswaranath

APPELLANT

Vs

The S.H.O.
Nagarampalem Law
and Order and N.
Venkat Rao

RESPONDENT

Date of Decision: April 29, 2010

Acts Referred:

- Constitution of India, 1950 - Article 226, 227
- Criminal Procedure Code, 1973 (CrPC) - Section 155(2), 156(1), 156(3), 482
- Penal Code, 1860 (IPC) - Section 34, 466, 468, 471
- Writ Proceedings Rules, 1977 - Rule 21, 21(j), 5, 5A

Hon'ble Judges: Gopala Krishna Tamada, J

Bench: Single Bench

Advocate: P. Sri Raghu Ram, for the Appellant; G.P. for the Respondent No. 1 and N. Ravi Prasad, for the Respondent No. 2, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Gopala Krishna Tamada, J.

This writ petition is filed seeking to quash the proceedings in Crime No. 170 of 2009 of Nagarampalem (Law and Order) Police Station, Guntur District dated 05.08.2009 registered for the offences punishable u/s 466, 468 and 471 read with Section 34 of I.P.C.

2. Seeking leave of this Court by filing W.P.M.P. No. 27279 of 2009, the power of attorney holder of the Writ Petitioner filed the Writ Petition on behalf of the writ petitioner contending that the Writ Petitioner is unable to come to Hyderabad to file

the affidavit in support of the Writ Petition. The learned Counsel for the unofficial respondent who is arrayed as respondent No. 2 in this Writ Petition raised a preliminary objection stating that the petition is not maintainable for the reason that the affidavit filed in support of the Writ Petition was not sworn to by the petitioner and the person who gave the affidavit has no authority whatsoever to file the present Writ Petition.

3. It is a fact that the petitioner's name is V. Chamundeswaranath and the affidavit was sworn to by one V. Tirumalrao. The reason assigned for giving the affidavit on behalf of the Writ Petitioner is that the petitioner is not in a position to leave Guntur because of the harassment at the hands of the management of Andhra Cricket Association. In the light of the said objection, raised by the counsel for the second respondent this Court directed the counsel on either side to advance arguments on the said preliminary objection and about the maintainability of the Writ Petition. The learned Counsel for the petitioner Mr. P. Sri Raghuram contended that it is not as though the petitioner alone has to come for the purpose of giving affidavit and even a GPA Holder can also file the affidavit and in this context he placed reliance on the Writ Rules framed by this Court and had drawn my attention to Rule 5 of the Writ Rules, which reads as under:

5(a) Every affidavit shall be drawn up in the first person and shall set forth succinctly and in chronological order all the relevant facts and the grounds for the relief sought. The statement of facts shall be divided into consecutively numbered paragraphs, each paragraph being confined as nearly as may be to a distinct portion of the subject.

(b) The affidavit shall state:

(i) The particular right conferred by the provisions of Part III of the Constitution sought to be enforced;

(ii) The other purpose for which relief is sought,

(iii) The particular law impugned and how it is not constitutionally valid and whether it is a State Law, Central Law or State and Central Law;

(iv) Whether any alternative remedy for the relief sought is provided for by or under any other law for the time being in force, and whether that remedy has been availed of and if so, with what result, by way of a separate paragraph;

(v) Whether the petitioner had or had not already filed a Writ Petition in the High Court or instituted any suit or other legal proceedings in any court of Law or Tribunal either for the same or substantially the same relief on a previous occasion and if he had done so, the particulars of the petition, suit or other proceedings and the result thereof shall also be mentioned in the affidavit, by way of a separate paragraph.

(c) When the deponent speaks to facts within his knowledge he shall do so directly and positively using the words;

"I make oath (or affirm) and say....

(d) When a particular fact is not within the deponent's knowledge, but is stated upon information the deponent shall use the words, I, am authorised by (giving the source of information) and verily believe it to be true and set out the grounds of his behalf.

(e) Every affidavit stating any matter of opinion shall show the qualification of the deponent to express such opinion by referring to his length of experience, acquaintance with or other means of knowledge of the person or matter as to which the opinion is expressed.

(f) A petition for a Writ of Habeas Corpus shall be accompanied by an affidavit by the person restrained setting out the nature and circumstances of the restraint:

Provided that where the person restrained is unable owing to the restraint to make the affidavit, the petition shall be accompanied by an affidavit made by some other person acquainted with the facts, which shall state the reason why the person restrained is unable to make the affidavit.

(g) An application shall state the provisions of Law under which it is made and shall not contain more than one prayer unless the prayers are consequential.

4. In my considered view the said rule applies only to those who are virtually not in a position to come to Hyderabad for the purpose of giving this affidavit. Here it is not the case of the petitioner that he is out of country or is not in a position to move out and the explanation as given by the person who has sworn to the affidavit is that he is not in a position to leave Guntur with which this Court is not convinced and the objection raised by the learned Counsel for the second respondent is sustainable. It is only in those circumstances, which are narrated in Rule 5-A of the above Writ Rules an exemption can be given but not as a matter of course. In that view of the matter this Court wanted to dismiss the Writ Petition on the ground of maintainability.

5. However, the counsel for the petitioner submitted that the petitioner is prepared to give an affidavit and sought for adjournment and the learned Counsel for the second respondent did not object to the said proposal and accordingly the Writ Petitioner himself filed the present affidavit in W.P.M.P. No. 35520 of 2009.

6. Brief facts that led to the filing of the present Writ Petition are that the 2nd respondent filed a private complaint against the writ petitioner and 3 others alleging, inter alia, that he is the president of Gandhi Memorial Cricket Club, Guntur, registered under the Societies Registrations Act with the Registrar, Guntur. The said Club is affiliated to the Andhra Cricket Association and became its member. The 2nd

respondent was the General Secretary from 1983 to 2007 of the Andhra Cricket Association and thereafter the writ petitioner (A1) was elected as General Secretary of the Andhra Cricket association and as per the bylaws on 21.07.2007 he was in charge of all the records and administration. The 2nd respondent owning the said club and continued to be a member of the Andhra Cricket Association. The Andhra Cricket Association is registered at Registrar's office, Guntur vide Registration No. 25/1953. As per the bylaws of the Andhra Cricket Association, the powers of representing the association is vested with the President/Secretary and in their absence only any other member can represent before the Board of Cricket Control of India. It is stated that the option of attending the meetings is vested with the President and the General Secretary only. It is also a tradition that if an office bearer attends board meetings twice continuously, option is open to become a member of the Board of Cricket Control of India. It is further alleged in the complaint that the writ petitioner is a member of a club called Black Shirts and became Secretary on 21.07.2007. Subsequently S.L. Narayana Rao, who was the President elected along with the writ petitioner continued in the office till 13.07.2008. As he has become old, G. Ganga Raju, who was the then Vice-President assumed the office of President. The said G. Ganga Raju, the present President, is a spirited personality and the writ petitioner apprehended that the said Ganga Raju may, by his attending Board meetings, thwart the opportunity of the writ petitioner to become a member of the Board (BCCI). It is further alleged that with this evil intention the writ petitioner got tampered the original entries in the Registrar's office in the second week of March, 2009.

It is further stated that the office staff of the Andhra Cricket Association consists of two assistants viz., G. Phani and A. Subba Rao. In the month of November, 2007 an amendment took place to the bylaws vide C. No. 978/2007 of the Andhra Cricket Association and it was necessitated to regulate the procedure of election of office bearers. The said amendment shall be made only by a special General Body Meeting that too by circulating the proposed amendments to the members and after due deliberations only, the amendment shall take place. As mentioned above, the amended bylaws which have been got printed 100 copies by the writ petitioner in and around second month of 2008 at Sri Rama Offset Printers, Arundalpet, Vijayawada was after obtaining the certified copies from the Registrar's office, Guntur in respect of amendment vide C. No. 978/2007. It is stated that before the said Ganga Raju became President, the writ petitioner, under receipt, obtained all 100 copies of bylaws and secreted them. After the said Ganga Raju became President, the writ petitioner was afraid and entertained an evil thought of manufacturing/tampering the relevant provision in the bylaws i.e., Rule 21(J) to deny the President to attend the Board meetings. It is further stated that from the month of December, 2007 the writ petitioner has been pestering and threatening the office assistants to go to Registrar's office to bribe the office staff to replace the relevant page of the original bylaws in the Registrar's office. It is further stated that the writ

petitioner prepared that particular page of the bylaws having the original, certified copy with him in the capacity of the General Secretary. The writ petitioner handed over the said forged page of bylaws by deleting the name of the President and retaining the name of the General Secretary. It is further stated in the complaint that the amendments of bylaws took place for Andhra Cricket Association in the years 1994 and 1999 vide amendments C. No. 415/1994 and 159/1999 and there was no amendment in between. The employees in the Registrar's office, Guntur, have taken bribe and inserted the tampered documents and replaced the original and genuine one. It is further stated that the writ petitioner burnt away the secreted bylaws which were printed on 12.01.2008 in view of the amendment printed vide C. No. 978/2007 by the Registrar's office and again got printed the present bylaws on 14.07.2008. The records of the Andhra Cricket Association will reveal the two payments made by the writ petitioner for printing the two sets of bylaws. It is further stated that to the show cause notice issued by the Andhra Cricket Association in respect of the tampering of records the petitioner gave a reply admitting complete transaction of getting bylaws printed by him. It is further stated that the 2nd respondent being a member of the Andhra Cricket Association obliged to protect the interest of the association. Hence the writ petitioner and other accused are liable for punishment under Sections 466, 468, 471 read with Section 34 of I.P.C.

The case of the writ petitioner is that none of the ingredients of aforesaid sections of law are made out against him. It is stated that a civil dispute generated out of grave animosity between the 2nd respondent and the writ petitioner as well as the President of Andhra Cricket Association and the same is now converted into a battery of criminal complaint with the process of malicious prosecution. It is further stated that so far as Section 466 of I.P.C. is concerned, there is no allegation that the so-called false documents have been made by the writ petitioner. In this case an allegation is made that the word "President" has been deleted. Assuming for a moment without conceding that such a deletion took place, the said President is the aggrieved party and if somebody was aggrieved by such false assertions it should be such person and not the 2nd respondent. Therefore, making any false document is "sine qua non" for making an allegation of forgery or even fabrication. It is further stated that filing of the complaint is process of harassment against the writ petitioner and in no way can be implicated in the alleged offence and the same is an abuse of process. Hence the writ petition.

A detailed counter-affidavit has been filed by the 2nd respondent contending that he filed a private complaint against the writ petitioner and 3 others under Sections 466, 468 and 471 of I.P.C., before the Special Mobile Magistrate Court, Guntur, who referred the same to the 1st respondent u/s 156(3) Cr.P.C. for investigation and report and that the 1st respondent-police registered the same as a case in crime No. 170 of 2009. It is contended that the writ petition is not maintainable in view of efficacious and specific relief available to the petitioner in Criminal Procedure Code

as it enables questioning any criminal proceedings u/s 482 of Cr.P.C., thereby invoking Article 226 of Constitution of India is nothing but abuse of process of law. It is contended that there is not even a single civil dispute to mention between the writ petitioner as an individual as well as Secretary with Andhra Cricket Association. It is further contended that a reading of the complaint discloses that the writ petitioner forged portion of byelaw got it inserted in the original register at Registrar's office. The two office employees i.e., G. Phani and A. Subba Rao categorically stated that the writ petitioner forged a portion in Clause 21(j) of bye-laws and pressurized them to incorporate through the employees of the Registrar's office. The allegation that the 2nd respondent is not an aggrieved party and the President whose name is deleted should have lodged report and that the complaint lodged by the 2nd respondent is not maintainable is not correct for the reason that if the bylaws of the association have been tampered for personal means, any member can knock the doors of Court of law. It is further contended that the investigation in the case is in progress, two witnesses have been examined and that a prima facie case is made out against the accused. The offence committed by the accused is supported by the employees of Registrar's office and therefore there is every need to interrogate the writ petitioner. Hence the writ petition is liable to be dismissed.

7. While issuing notice before admission, this Court, on 25.09.2009 stayed the investigation into the Crime No. 170 of 2009 of Nagarampalem Police Station, Guntur and the same was extended until further orders.

8. The learned Counsel for the petitioner contended that the present case has been filed against the petitioner with false allegation of tampering of byelaws in the office of the Registrar of Societies, Guntur. He further submitted that even the enquiry of the President of the Andhra Cricket Association reveals that there is no such alleged tampering of byelaws with the Registrar of Societies, Guntur. He further submitted that a plain reading of the complaint does not make out any offence including the offences registered against the petitioner. He further submitted that this Court has ample powers to interfere in an investigation to quash criminal proceedings when there are malicious allegations aimed in to rope in the petitioner with false allegations. He further submitted that the second Respondent who acted as General Secretary for about 25 years is not able to digest the election of the Petitioner to the said post and having bore grudge only he filed the present compliant against the Petitioner. In support of the said contention, the learned Counsel relied on a decision in *State of Haryana v. Bhajanlal* 1992 Supp (1) SCC 338 . He further submitted that the contention that the petitioner should have approached this Court by filing an application u/s 482 Cr.P.C. but not Article 226 of the Constitution of India is not correct. In support of the said contention he relied on a decision reported in [Pepsi Foods Ltd. and Another Vs. Special Judicial Magistrate and Others](#),

9. One the other hand, the learned Counsel for the 2nd respondent contended that a reading of the facts in the private complaint would disclose a prima facie case

against the writ petitioner. He further contended that a reading of the complaint would disclose that the writ petitioner forged a portion in Clause 21(j) of bye-laws and got it inserted in the original register at Registrar's office through the employees of the Registrar's office. He further contended that the allegation that the 2nd respondent is not an aggrieved party and the President whose name is deleted should have lodged report and that the complaint lodged by him is not maintainable is not correct for the reason that Gandhi Memorial Cricket Club, to which the 2nd respondent is the President, is one of the member clubs of the Andhra Cricket Association and if the bylaws of the association have been tampered for personal means, any member can knock at the doors of Court of law. He further contended that with a mala fide intention the writ petitioner deleted the word "President" from Clause (j) of Rule 21 of byelaws in Registrar's office, got printed tampered bye-laws and circulated the bye-laws with an intention to play fraud in the minds of members as if he being the Secretary alone is empowered to attend board meetings. He further contended that the investigation in this case is in progress and two witnesses have already been examined and a prima facie case is made out against the writ petitioner.

10. This court is aware of the scope of the inherent powers conferred u/s 482 of Cr.P.C. The said inherent powers have to be exercised in rarest of the rare cases and the same shall be used sparingly. In fact when a crime has been registered it is for the police concerned to investigate into the matter and arrive at a conclusion as to whether the said report / complaint is true or false and it is not for this Court to exercise its jurisdiction in a routine manner. Keeping the above principles laid down by the apex court in number of cases this Court looked into the facts of the case on hand.

11. The contention of the second respondent that the present Writ Petition is not maintainable on the ground that the petitioner has to file a petition u/s 482 Cr.P.C. instead of availing the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India cannot be sustained in view of the ratio laid down by the Hon"ble apex Court in Pepsi Foods Ltd. Case (2 supra) wherein it is held that:

It is settled that the High Court can exercise its power of judicial review in criminal matters. Under Article 227 the power of superintendence by the High Court is not only of administrative nature but is also of judicial nature. This article confers vast powers on the High Court to prevent abuse of the process of law by the inferior courts and to see that the stream of administration of justice remains clean and pure. The power conferred on the High Court under Articles 226 and 227 of the Constitution and u/s 482 of the Code have no limits but more the power more due care and caution is to be exercised while invoking these powers. When the exercise of powers could be under Article 227 or Section 482 of the Code it may not always be necessary to invoke the provisions of Article 226. (Para 22)

Nomenclature under which petition is filed is not quite relevant and that does not debar the Court from exercising its jurisdiction which otherwise it possesses unless there is special one the court finds that the appellants could not invoke its jurisdiction under Article 226, the court can certainly treat the petition as one under Article 227 or Section 482 of the Code. It may not however be lost sight of that provisions exist in the code of revision and appeal but some time for immediate relief Section 482 of the Code or Article 227 may have to be restored to for correcting some grave errors that might be committed by the subordinate courts. The present petition though filed in the High Court as one under Article 226 and 227 could well be treated under Article 227 of the Constitution. (Para 26)

No doubt the Magistrate can discharge the accused at any stage of the trial if he considers the charge to be groundless, but that does not mean that the accused cannot approach the High Court u/s 482 of the Code or Article 227 of the Constitution to have the proceedings quashed against him when the complaint does not make out any case against him and still he must undergo the agony of a criminal trial" (Para 29)

12. In view of the above legal provision laid down by the apex Court this Court is of the view that the Writ Petition can be maintained and the objection of the learned Counsel for the second respondent is rejected.

13. Coming to the factual scenario, the second respondent alleged that the Writ Petitioner has tampered with the original document and has intentionally deleted the word "President" at Clause 21(j) of the Bye-laws by obtaining the certified copies from the Registrar's office Guntur in respect of amendment vide C. No. 978/2007 to become a member of the Board of Cricket Control of India. No doubt it is true that any person can knock at the doors of the court if such a fraud has taken place. But it should also be remembered here that with the act of the petitioner the person directly affected is none but the President of the said Association. But in the instant case though his right to represent before the BCCI is in peril and is thwarted, the President did not make any whisper about the alleged tampering more so when there is a practice and procedure to make amendments to any of the clauses of the bye laws. It is only the ex-general secretary who lodged the said private complaint on the basis of which the present crime has been registered. This throws some light on the veracity of the allegations in the complaint.

14. Further, the second respondent alleged that the writ petitioner put the staff of the office of the Registrar under threat and coercion to insert the forged document in the place of original. When such is the case of the second respondent, it is not known as to why the said staff of the office of the Registrar being public servants did not make any complaint about the same to the police or to their higher authorities. More over, when there is an offence being committed in his office, the Registrar of the Societies should have probed into the same and initiated necessary action, but there is no initiative in that regard from that side. Further, it is to be seen that even

the enquiry of the President of the Andhra Cricket Association reveals that there is no such alleged tampering of byelaws with the Registrar of Societies, Guntur.

15. In Bhajan Lal case (1 supra) relied on by the learned Counsel for the petitioner the Supreme Court at para-102 held as under:

In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power "under Article 226 of the inherent powers u/s 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

2. Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers u/s 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

3. Where the uncontroversial allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

4. Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated u/s 155(2) of the Code.

5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act. Providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal

grudge.

16. In the light of the above said provisions, this Court directed the learned Assistant Government Pleader to file a detailed counter or to get instructions. Accordingly, the learned Assistant Government Pleader produced the record maintained by the police and from a perusal of the said record maintained by the police, as produced by the learned Assistant Government Pleader, it is clear that there is no tampering whatsoever in so far as the records of the society are concerned. Further, keeping in view the above decision in mind, this Court looked at the allegations made in the complaint, which are as follows:

a) As the present President has become old, G. Ganga Raju, who was the then Vice-President assumed the office of President. The said G. Ganga Raju, the present President, is a spirited personality and the writ petitioner apprehended that the said Ganga Raju may, by his attending Board meetings, thwart the opportunity of the writ petitioner to become a member of the Board (BCCI). It is further alleged that with this evil intention the writ petitioner got tampered the original entries in the Registrar's office in the second week of March, 2009.

b) As mentioned above, after the amended by laws which have been got printed 100 copies by the 1st accused (writ petitioner) in and around the second month of 2008 at Sri Rama Offset Printers, Arundalpet, Vijayawada was after obtaining the certified copies from the Registrar's office, Guntur in respect of amendment vide C. No. 978/2007.

c) Sri Ganga Raju became President on 13.07.2008. Before Mr. Ganga Raju became President the 1st accused (Writ Petitioner) under receipt obtained all 100 copies of bylaws and secreted them. After the said Ganga Raju became President, the writ petitioner was afraid and entertained an evil thought of manufacturing/ tampering the relevant provision in the bylaws i.e., Rule 21(j) to deny the President to attend the Board meetings.

d) After Sri Ganga Raju became President, the 1st accused (Writ Petitioner) glancing his dynamism thought that he would be undone and cannot become the member of the Board and entertained this wicked notion. From the month of December 2007 the 1st accused is pestering and threatening the two office assistants by names G. Phani and A. Subbarao to go to the Registrar's office to bribe the office staff to replace the relevant page of the original bylaws in the Registrar's office. The 1st accused (Writ Petitioner) made the life of two office staff miserable and giving life threat and removal of jobs. Sri A. Subbarao who is an old man is exonerated and Sri G. Phani has become a scapegoat. The 1st accused (Writ Petitioner) prepared that particular page of the bylaws having the original, certified registered copy with him in the capacity of the General Secretary. The writ petitioner handed over the said forged page of bylaws by deleting the name of the President and retaining the name of the General Secretary. The said act of the 1st accused (Writ Petitioner), if

fructifies, will enable only him to attend the meetings of the Board. The said tampered document was to be replaced with original page as if the same was in existence prior to 1995. It is not out of place to mention that the amendments of bylaws took place for Andhra Cricket Association vide C. No. 415/1994 and 159/1999 and there was no amendment in between.

e) Having deputed G. Phani under threat of the office the said Phani approached the accused 2, 3 and 4 in the month of March 2009. The three accused who are employees in the Registrar's office, Guntur have taken money and inserted the tampered / forged document and replaced and removed the original and genuine one. The same has come into picture in the month of April or May 2009.

17. Taking the aid of the 5th limb of the above guidelines, this Court is of the view that the allegation that the employees in the Registrar's office, Guntur, have taken bribe and inserted the tampered documents and replaced the original and genuine one and that the writ petitioner burnt away the secreted bylaws which were printed on 12.01.2008 in view of the amendment printed by the Registrar's office and again got printed the present bylaws are improbable because on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the Writ Petitioner. Further, keeping in view the 7th limb of the said guidelines, this Court is of the view that the present criminal proceeding is manifestly attended with mala fide and/or the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance against the petitioner and with a view to spite him due to private and personal grudge since this all appears, as contended by the Petitioner, that the 2nd respondent who was the General Secretary of the Andhra Cricket Association for about 25 years could not digest the election of the Writ Petitioner as General Secretary of the said association.

18. With regard to the allegations leveled against the petitioner mentioned above, prima facie, except the allegation made by the second respondent there is no mention of the alleged tampered entries at all. Even in the certified copies obtained from the office of the Sub Registrar there is no evidence that there was tampering of the relevant provision of the bye laws. Further, as per the written instructions submitted by the Sub Inspector of Police, nagarampalem L and O PS, Guntur District also there is no whisper about the alleged tampering or any mischief. It is stated in the said instructions that "Even the amendments update is not disclosing factum of addition or deletion of such words. Prima facie it appears that the allegations in the complaint about the deletion of President or Secretary is not established as per byelaws supplied by the Registrar".

19. Another aspect, which is prompting this Court to take this view, is the registration of the crime. It is not as though the second respondent approached the police and gave a report on the basis of which the said crime has been registered. He approached the court below and filed a private complaint and thereafter the court below referred the matter to the police for investigation u/s 156(3) Cr.P.C. and

thereupon the crime has been registered. Of course, it is not mandatory that every report shall be given to the police at the first instance and thereafter only they have to approach the court by way of a private complaint. As per the provision of law the police can register a case either on the complaint given by the de facto complainant or on the basis of a reference from the court. But approaching the court at the first instance and filing a private complaint without approaching the police shows that the complainant i.e. the second respondent herein had approached the court with a malafide intention.

20. From all the above, this Court is of the view that the second Respondent with a view to wreak vengeance against the Petitioner instituted the proceedings and hence the same is liable to be quashed.

21. In the result, the Writ Petition is allowed and the proceedings in Crime No. 170 of 2009 of Nagarampalem (L and O) PS, Guntur dated 05.08.2009 registered for the offences punishable u/s 466, 468 and 471 r/w Section 34 of I.P.C. are hereby quashed.