

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION NO.2652 OF 2015

ORDER:

The instant petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code') by A.7 in Crime No.209 of 2013 of Badvel Urban Police Station, Badevel, Kadapa District, registered for the offences punishable under Sections 447, 427, 323, 509 and 506 read with Section 34 of the Indian Penal Code (for short, 'the I.P.C') and Section 3(1)(x) of the SCs & STs (POA) Act, 1989 (for short, 'the Act').

2. Perused the complaint. The complaint averments would show that on 05.10.2013, while the defacto complainant, who is respondent No.2 herein, was raising construction towards western side abutting Panchayat road by engaging coolies, at about 08.30 A.M. the accused persons damaged the wall and assaulted her by throwing chappal and abused in filthy language by using caste name, and when she started raising construction on 05.11.2013 at about 8.30 A.M, the petitioner also accompanying the other accused came there and threatened them that they would see the end of her life in case she raises construction.

3. Heard the learned counsel for both sides.

4. The learned counsel for petitioner submits that in the first instance, the participation of petitioner was not shown, whereas in the second instance, her participation is shown. Therefore, he submits that the offence punishable under Section 3(1)(x) of the Act would not attract. He further submits that some of the accused, who were residing at Dubai, are falsely implicated, and, therefore, sought to quash the F.I.R itself as it is nothing but abuse

of process of law. The learned Assistant Public Prosecutor opposed the request of the learned counsel for petitioner.

5. At this stage, only the complaint is available on record. It is no doubt true, the participation of petitioner is shown so far as the second instance is concerned, but irrespective of the fact that the offence punishable under Section 3(1)(x) of the Act would attract or not, so far as the other offences punishable under Sections 447, 427, 323, 509 and 506 read with Section 34 of I.P.C are concerned, the charge sheet is yet to be filed.

6. The learned Assistant Public Prosecutor represents that the investigation is almost completed and arrest of petitioner and one more accused is yet to be effected.

7. Be that as it may, when the name of the petitioner is specifically shown in the complaint, at this stage it cannot be said that the petitioner is falsely implicated. However, in view of the request made by the learned counsel for petitioner and in view of the fact that the F.I.R was registered in the year 2013, the Investigating Officer concerned shall follow the procedure under Section 41(A) of the Code applying the legal principles laid down in the decision of the Hon'ble Supreme Court in ***Arnesh Kumar v. State of Bihar and another***^[1].

8. In the result, the Criminal Petition is dismissed with the above directions.

9. As a sequel thereto, miscellaneous applications, if any, pending in the petition, stand disposed of.

A. SHANKAR NARAYANA, J

Date: **24.04.2015**

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Dt. 24.04.2015

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[\[1\]](#) 2014 (2) ALT (Crl.) 457 SC