

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.9057 of 2013

ORDER:

In this petition filed under Section 482 Cr.P.C, the petitioner/Accused seeks to quash the proceedings in P.R.C.No.55 of 2009 (Crime No. 348 of 2008 of Vikarabad Police Station) on the file of Judicial First Class Magistrate, Vikarabad, Ranga Reddy District.

02. On the report given by the second respondent/ complainant, the Police of Vikarabad Police Station registered a case in Cr.No.348 of 2008 and after investigation laid charge sheet against the petitioner/accused for the offences under Sections 3 (1) (x) of SCs & STs (POA) Act, 1989 and Section 504 of Indian Penal Code.

03. The case of the prosecution is that the *de facto* complainant is a resident of Subashnagar Colony, Vikarabad and the native of Kandlapally Village of Pudur Mandal and belongs to SC Community and the accused Dr. Saraswathi is working as Medical Officer at Community Health Centre (APVVF), Vikarabad and she belongs to BC (Baliya) Caste. The complainant retired as Deputy Para Medical Officer of Health Department in the year, 2003 and since then he settled at Vikarabad and looking after agriculture at Kandlapally Village. The complainant also worked as Advisory Committee Member of Community Health Centre (APVVP) Vikarabad. As an advisory Committee Member, the complainant used to go to Community Health Centre(APVVP), Vikarabad, to look after the welfare of patients and thereby he got acquaintance with the patients as some of the patients come to him to take his help in getting treatment at Community Health Centre(APVV), Vikarabad. On 07.10.2008 when one Smt. Kamamma, R/o Vikarabad approached him along with her husband and requested to render his help in getting treatment. At about 0945 hours when they went to O.P. Room of the hospital, Dr. Sreedhar and Dr. Khan were present. They told to him that lady doctor would come very soon and offered him a seat and tea. While they were taking tea, at about 1015 hours, Dr. Saraswathi came to the OP Room. When Dr. Sreedhar and complainant asked her to have tea, she aggressively told them that she does not want to have "Dongala Tea". Then the complainant interfered and asked not to talk in that un-cultured way.

Then heated exchange of words took place between the complainant and Dr. Saraswathi. Dr. Saraswathi threatened the complainant saying why he came to the hospital. Then the complainant replied her that he came to the hospital in the capacity of Hospital Advisory Committee Member and brought one patient Kamalamma for her check up. She abused that Mala Madiga Lanja Kodukulaku Thindi, Masthi Ekkuuvanidi". This incident was witnessed by Narasaiah, Kamalamma, Dr. Sreedhar, Dr. Khan, Kurnmari Krishna "X" Ray Technician, M.A. Waheed, a Private Ambulance Driver, Dr. Pawan Kumar and Sister Priyadarshini. Thus, the said Dr. Saraswathi insulted the complainant in the presence of public in general, particularly at hospital premises by using his caste name.

04. The charge sheet was taken cognizance and registered as P.R.C.No.55 of 2009 and it is pending for committal on the file of Judicial First Class Magistrate, Vikarabad.

Hence, the instant petition.

05. Notice given to second respondent/complainant, but there is no representation on his behalf.

06. Heard the petitioner, who appeared-in-person and the learned Assistant Public Prosecutor.

07(a). Denying the charge sheet allegations, the petitioner sought for quashment of proceedings on the main plank of argument that the complainant does not belong to SC Community and in fact he belongs to Christian Community and attached to Methodist Central Church, Vikarabad and the said Church Authorities issued certificate to that effect and further, on the complaint given by the petitioner/accused, Tahsildar, Vikarabad Mandal, submitted a report dated 15.01.2013 to the District Collector, Ranga Reddy District, informing that as per the Methodist Church Records, the *de facto* complainant has taken Baptisam at his childhood and he is a member of Methodist Church, Mission Compound, Vikarabad and the District Collector, Ranga Reddy, after due enquiry issued proceedings No.C2/2208/2012, dated 18.07.2013, whereunder he cancelled the SC Caste Certificate of the complainant and therefore the Criminal Proceedings are not maintainable as their continuation would amount to abuse of process of law.

(b) Next, petitioner argued that she is an innocent officer and she was falsely implicated in the present case as a counter blast to the complaint given by her earlier in C.C.No.226 of 2009 under Section 506 and 290 IPC dated 16.06.2009 against the present *de facto* complainant and some others. In the said case, the police investigated and filed charge sheet, which was registered as C.C.No.497 of 2009 and pending on the file of Judicial First Class Magistrate, Vikarabad. On the above submissions, the petitioner sought for quashment of proceedings.

08. Per contra, the learned Additional Public Prosecutor argued that whether the caste certificate of the *de facto* complainant was cancelled in the proceedings of the District Collector, Ranga Reddy or not and whether the present case is a counter blast to the Criminal Case No.497 of 2009 lodged by the present accused or not, need to be decided after full fledged trial and since the matter is in the stage of committal to the Sessions Court, the proceedings may not be quashed at this stage.

09. In the light of the above rival arguments, the point for determination is :

“ whether there are merits in this petition to allow?”.

10. **POINT:** The crux of the argument of petitioner is that she is innocent and she was falsely implicated in the present case as a counter blast to her case C.C.No.497 of 2009 and further, even if the charge sheet allegations are uncontroverted, still the case of prosecution against her is not maintainable in view of the fact that *de facto complainant* is not a Scheduled Caste person since the Caste Certificate obtained by him was cancelled by the District Collector, Ranga Reddy District, after due enquiry.

11. So far as first argument that present case is a counter-blast against C.C.No.497 of 2009 to wreak-vengeance against the petitioner/accused is concerned, it must be noted that whether a particular case is filed as a counter blast to another case or not is an inference that can be drawn by the Court only after taking several factors into consideration which will be possible only after due trial but not at the threshold stage like the instant one. Merely because the parties mutually filed cases against each other, there cannot be any automatic conclusion that one is filed against another to implicate the other in a false case. The reason is that some times the incidents in both the cases may be true; some times the incidents in both the cases

may be false and some times, the incident in one case may be true and other may be false. So, on this ground, the proceedings cannot be quashed as sought for by the petitioner/accused.

12. Then the argument relating to Community of *de facto* complainant is concerned, charge against the accused is under Section 3 (1) (x) of SCs and STs(POA) Act, 1989. Section 3 (1) (x) reads thus:

“ Whoever, not being a member of a scheduled Caste or a Scheduled Tribe, intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view”.

Hence, to attract an offence under Section 3 (1) (x) of SCs & STs (POA) Act, 1989, the victim shall and accused shall not be a member of Scheduled Caste or Scheduled Tribe. Now, the contention of the petitioner is that the *de facto* complainant belongs to Scheduled Caste community and his certificate was cancelled by the District Collector. I perused the photo copy of the Order in Proceedings No.C2/2008/2012, dated 18.07.2013, purported to be issued by the District Collector, Ranga Reddy District. This Order reads as if the SC Caste Certificate obtained the *de facto* complainant was cancelled. Be that it may, as rightly pointed out by the learned Additional Public Prosecutor, the veracity of the said Certificate in conjunction with other facts has to be appreciated by the trial Court at the relevant time of framing of charges. Therefore, in the considered view of this Court it is apposite to direct the petitioner/accused to approach the concerned trial Court and file discharge application and seek for her discharge.

Accordingly, the petitioner/accused is given liberty to approach the trial Court to file discharge application by taking all the pleas legally permissible to her, in which case, the trial Court shall pass Orders on merits expeditiously. Further, considering that the petitioner/accused is a lady Doctor whose services are required to the public, her presence before the committal Court and the trial Court is dispensed with except when the concerned Courts specifically require her presence.

13. Accordingly, this Criminal Petition is disposed of.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 02.06.2015

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