

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.8848 of 2014

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ORDER :

This criminal petition is filed by the petitioners/A-1 to A-6 under Section 482 Cr.P.C to quash the proceedings in Crime No.140 of 2014 of Kurnool IV Town Police Station registered for the offences punishable under Sections 323, 506 I.P.C and Section 3(1(x) of the Scheduled Cates and the Scheduled Tribes (Prevention of Atrocities) Act which is basing on the private complaint dated 18.10.2013 filed by the 2nd respondent and the learned Magistrate referred the same to the police for investigation under Section 156(3) Cr.P.C.

2) It is important to mention that the alleged occurrence was in the office on 05.08.2013, even in the alleged occurrence said to have taken place at 11.00 A.M. on that day in the office, the complainant did not chose to give the report to the police immediately. It was on their very filing copy of the report said to have been given to the Sub-Divisional Police Officer concerned only with dt.08.08.2013. It is in fact as can be seen pursuant to the Superintendent of Police, Kurnool to the Dy.S.P Kurnool on that day. What the contents read are they are working for the past two years for the Company for distribution of pensions and pay for working salaries and remunerations and while so, on the fateful day on 05.08.2013 at about 11.00 A.M called to the office of Phino Paytech of Venkata Ramana Colony and P.Mallikharjun and Srinivasa Reddy who are accused Nos.1 and 4 of the quash petition, abused them touching the caste by insulting with intent to humiliate. It is further averred that Mallikharjun over phone in the call conference with P.Somanna, Venkata Prasad Inayatullah, Amith Bargav who are other accused Nos.2, 3, 5 and 6 of the quash petition abused touching their caste in saying to give resignation and leave the job, otherwise to implicate

them as if they misappropriated the amounts of the office. P.Mallikarjun and Srinivasa Reddy A-1 and A-4 respectively supra caught hold of their collars and sent out from the office premises. Hence to take action against all the persons.

3) From the substance of the accusation, there is nothing to say that in the office premises, there are any other independent persons present to say public presence to call the alleged occurrence in public view. There is no explanation for the delay of three days even in giving the report on 08.08.2013 before the Superintendent of Police. It is not even the case any report given to the Station House Officer or Deputy Superintendent of Police, from perusal of said report dated 08.08.2013. It is no doubt having been aggrieved by no crime registered by the Sub-Divisional Police Officer concerned pursuant to the endorsement of the Superintendent of Police concerned, the said private complaint dated 18.10.2013 for more than two months 12 days later to it filed. Even on perusal of the complaint averments, page Nos.2 and 3 particularly paras 1 to 3, there is nothing to say who are the public present before whom the accusations are made to say within the four corners of public view.

4) There are two sets of offences alleged from the F.I.R, one is abuse on face and the other is abuse through call conference. So far as the call conference concerned, it is difficult for a person to view who were the persons there other than those participated in the call and he cannot say that done in the public view. Same is also the proposition including from the expression of this Court in **Potluri Poorna Chandra Prabhakara Rao V. The State of A.P.** reiterated in subsequent expression of **P.Ananda Rao V. State of A.P** (Crl.P.No.2786 of 2013, dated 14.10.2013). Even regarding the other direct abuse by calling to the office, there is nothing to say that it is in public view as dismissed supra as held, the office premises is not a public view for the inmates of the office even by **Ananda Rao** supra.

5) Having regard to the above, the learned Magistrate ought to have been verified the facts before referring rather for sake of asking

as to any accusation made out under Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, without which it is simply referred and crime is registered. When there is no prima facie accusation to attract the ingredients of Section 3(1)(x) of the Act from what is discussed supra, the continuation of the crime proceedings is nothing but abuse of process. The contention that in the course of investigation, this being called for by the Court, there are statements of witnesses recorded by the investigating officer cannot be given credence for no whisper either in the belated report of three days of the occurrence on 08.08.2013 muchless even in the private complaint about two months 12 days later on 18.10.2013, suffice to say proceedings are liable to be quashed.

6) In the result, the criminal petition is allowed and the proceedings in Crime No.140 of 2014 of IV Town Police Station, Kurnool are quashed in respect of the petitioners herein. The bail bonds of the petitioners/accused, if any, shall stand cancelled.

7) Miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

27.11.2015

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