

*** HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO**

+ CRIMINAL PETITION No.6425 OF 2015

% 21-07-2015

T.V.S.Kuppuswamy

....Petitioner

Vs.

\$ The State of Telangana,

rep., by Public Prosecutor and another ... Respondents

!Counsel for the petitioners : Ms.Kranthi K.Vaka

Counsel for the Respondents: Learned Public Prosecutor for Telangana

<Gist :

>Head Note:

? Cases referred:

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.6425 OF 2015

ORDER:

This Criminal Petition is filed by the petitioner/A1 under Section 482 Cr.P.C seeking to quash the proceedings in P.R.C.No.25 of 2015 on the file of XVII Additional Chief Metropolitan Magistrate Court, Hyderabad.

Heard the learned counsel for the petitioner and the learned Public Prosecutor (Telangana) for the State before notice to respondent No.2 and before admission. Perused the material on record.

The petitioner is A1 among two accused of crime No.628 of 2014 of Jubilee Hills Police Station, Hyderabad, registered for the offences punishable under Sections 354, 354(D), 506, 323 r/w 34 I.P.C. and Section 3(1)(ii) of the

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act'). It is after investigation, the police filed charge sheet so far as the petitioner/A1 is concerned except for the offence under Section 3(i)(ii) of the Act, the other offences mentioned in the F.I.R. So far as A2 is concerned including Section 3(i)(ii) of the Act. Undisputedly, A1 belongs to Scheduled caste, as can be seen from the charge sheet. In fact, A1 and A2 moved for anticipatory bail and this Court while holding CrI.P.Nos.8411 and 8422 of 2014 dated 28.07.2014 held that the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has no application so far as A1 is concerned and anticipatory bail is maintainable and however by finding not a case granting anticipatory bail given liberty to surrender and move for regular bail. Even from the very report of the *de facto* complainant, though there is whisper in saying the accused along with his wife brought liquor bottles and biryani in the car into his house and they started drinking and forced him to consume, there is nothing to say that they forcibly administered. What he says was, while he was consuming appears voluntarily, there is alleged outrage of modesty of his wife. Even there from Section 3(i) or (ii) has no application to the facts. Once that is the case, the alleged occurrence dated 29.06.2014 leave about any explanation for the delay in reporting the occurrence undisputedly on 05.07.2014. The offence punishable under Sections 354, 354-D and 506 r/w 34 I.P.C. so far as accused concerned are triable by the Magistrate. Thus, there are no grounds to commit the case to the Court of Sessions covered by P.R.C.No.25 of 2015 on the file of XVII Additional Chief Metropolitan Magistrate Court, Hyderabad.

Now, it is one of the contentions further by the learned counsel for the petitioner/A1 that in addition to what is referred supra of no case to be tried by the Court of Sessions to commit by the learned Magistrate, in impugning the PRC proceedings pending before Magistrate, that there is delay in reporting the occurrence.

It is pointed out by the learned Public Prosecutor that F.I.R. itself contains an explanation. It is premature for this Court at this stage as to the delay and the alleged explanation sustainable or not but for to decide by the trial Court. Now, as pointed out by the learned counsel for the petitioner there are improvements in the statements of the so called witnesses LWs 3 to 7. It is

true from reading of F.I.R. and from the statement of LW.1, who set the law in motion, LW.2 victim and there is nothing about presence of LW.3 their daughter aged about 7 years, leave about any persons or gathering of LWs.4 to 9 of the charge sheet to say they are the so called eye witnesses. It is for the reason in the very explanation for the so called delay, what the *de facto* complainant in the report as well as in his statement so also by the victim and LW.2 in her statement, stated is the accused allegedly threatened them not to disclose to anybody and not even their case of any hue and cry and therefrom gathering of neighbours. It is having they left the village and after one week allegedly came back and there from reported the police. So far as these improvements concerned, it is also a matter to be elicited in trial, as it is premature for this Court to say F.I.R. coupled with the statements of LWs.1 and 2 is not suffice to sustain other accusations.

Having regard to the above, the petition before admission from the hearing of the petitioner/A1 and the 1st respondent/State represented by Public Prosecutor and before notice to the 2nd respondent/*de facto* complainant, disposed of holding that there is no case triable by the Court of Sessions for the offence under Section 3(i) or (ii) of the Act not attracted for no occurrence in the public view and there is no forcible administering of any abnomis substance or any other material to it much less to assault or of any dumping excrete, waste matter or cascade etc., Hence, P.R.C. number allotted by the learned Magistrate is held unsustainable, with a direction to close the said P.R.C. and take case on file afresh as C.C. to try for other offences as Section 3(1)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has no application.

Accordingly, this criminal petition is disposed of.

Miscellaneous petitions pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 21-07-2015

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**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

CRIMINAL PETITION No.6425 OF 2015

Between:

T.V.S.Kuppuswamy

... Petitioner

and

The State of Telangana, rep., by Public Prosecutor and another

... Respondents

DATE OF JUDGEMENT PRONOUNCED: 21-07-2015

SUBMITTED FOR APPROVAL:

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

1. Whether Reporters of Local newspapers
may be allowed to see the Judgment? Yes/No Yes/No

2. Whether the copies of judgment may be Yes/No
marked to Law Reporters/Journals? Yes/No

3. Whether Their Ladyship/Lordship wish to Yes/No
see the fair copy of the Judgment? Yes/No

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