

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

FRIDAY, THE NINTH DAY OF OCTOBER
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL PETITION No.9469 of 2015

Between:

Kathala Saraswathi and another

..... PETITIONERS/A2 & A5

AND

The State of Andhra Pradesh,

Rep.by its Public Prosecutor,

High Court at Hyderabad and another

.....RESPONDENTS

The Court made the following:

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL PETITION No.9469 of 2015

ORDER:

This criminal petition is filed under Section 482 Cr.P.C to quash the proceedings in

PRC.No.122/2015 on the file of the learned Additional Judicial Magistrate of First Class, Ananthapuram, registered for the offences punishable under sections 452, 354, 355, 506 r/w. Sec.34 IPC and under Section 3(1)(x) of SC & ST (POA) Act, 1989.

Heard the learned counsel for the petitioners/A2 & A5 and the learned Additional Public Prosecutor, representing the State.

The petitioners herein are originally shown as A2 & A5 in the complaint filed by the 2nd respondent/*de facto* complainant alleging that on 05.08.2015 in the morning hours some altercation took place at water tap in between the non-petitioner/A1 and the *de facto* complainant and thereafter, all accused persons went to the house of the *de facto* complainant, abused her touching her caste and caught hold of her and dragged her on the road and torned her blouse. Basing on the complaint, the police registered the crime, completed the investigation and filed charge sheet against A1, A3 & A4 by deleting the names of the petitioners herein, who are originally shown as A2 & A5 in the complaint, on the ground that no independent witness has stated their involvement in the commission of offence. Subsequently, the *de facto* complainant filed protest petition, and after following the procedure, the learned Magistrate issued summons to the petitioners herein.

The contention of the learned counsel for the petitioners herein is that though the names of the petitioners were shown in the FIR as A2 & A5, but, subsequently, their names are deleted while filing the charge sheet, stating that the investigation reveal that there is no *prima facie* case find out against the petitioners herein to proceed further.

The sworn statement of the complainant, so also her 161 Cr.P.C statement clearly speaks about the involvement of the petitioners herein. The truth of otherwise of the allegations can only be determined or decided during course of trial. There is *prima facie* case to proceed against the petitioners herein. I feel that it is not a fit case where the proceedings can be quashed. Therefore, the Criminal Petition is liable to be dismissed.

At this stage, it is brought to the notice of this Court by the learned counsel for the petitioners that the non-petitioners/A1, A3 & A4 were on bail and therefore, he prays this Court to grant bail to the petitioners/A2 & A5.

Taking into consideration the facts and circumstances of the case, the petitioners herein i.e. A2 & A5 are directed to surrender before the Additional Judicial Magistrate of First Class, Ananthapuram, within a period of 15 days from today, and on such surrender, the learned Magistrate shall enlarge them on bail on each of them executing a personal bond for a sum

of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to his satisfaction.

The Criminal Petition is accordingly disposed of.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date: 09.10.2015

Dsr

Note:

Furnish copy in two days

B/o

Dsr