

THE HON'BLE SRI JUSTICE Dr B. SIVA SANKARA RAO

CRL.P.No.5471 of 2015

ORDER:

This criminal petition is filed by the petitioners/ A.1 & A.2 under Section 482 Cr.P.C. seeking to quash the proceedings in PRC No.12 of 2015 on the file of the learned Additional Judicial Magistrate of First Class, Markapur, where the learned Magistrate has taken cognizance for the offence punishable under Sections 506, 509 r/w 34 IPC and Section 3(1) (r)(s), SC and ST (POA) Amendment Ordinance, 2014, which is outcome of report of 2nd respondent-de facto complainant in Crime No.136 of 2014 of Markapur Rural P.S., Prakasam District.

2. On 29.06.2015, this Court granted interim stay of all further proceedings in PRC.No.12 of 2015 on the file of the Additional Judicial Magistrate of First Class, Markapur, for a period of five (5) weeks and ordered notice to the 2nd respondent-de facto complainant and even 2nd respondent is served with notice and acknowledged, failed to attend, hence taken as heard and heard the 1st respondent-State represented by Public Prosecutor as well as the counsel for the petitioner/accused of the crime supra and perused the material on record.

3. The very report of the de facto-complainant dated 10.7.2014 in registering the crime No.136 of 2014 by the Station House Officer, Markapur Rural P.S., reads that she is working as Teacher in Z.P.H. School and that her husband purchased 3 guntas and 2 cents (9 ½ cents) land from Mudiyalala Rajgopala Reddy on 02.03.2007 for Rs.1,40,000/- and obtained sale agreement and when they demanded Rajgopala Reddy, and his brother-in-law J. Rangareddy-A.1 and Chadalawada Tirupathi Reddy-A.2 came to them stating that in relation to registration of the land, they have to be contacted and when contacted. they registered the land only to an

extent of 2 guntas in her favour and one gunta in favour of her son and deceived with false words saying that they want to register the remaining land latter and when she asked about registration of remaining land of nearly 2 cents has registered only 3 guntas. They further stated that there is some problem and they would register the land at their convenience only and scolded that they also demolish the prayer house therein. The land constructed by her in the property which she purchased, when questioned them about it, they insulted her thrice in front of public abusing as that she belonged to lower caste like 'Madiga'. Again on 22.6.2014 at evening when she asked them for registration of the land but they stated that they were not understood madiga's uttered words and abused him with filthy language with unwritten words like "Madiga Lanjidana" Ninnu Kosta" (to injure) etc., and stated that they are not going to register the remaining 2 cents of land, which belongs to his brother-in-law, J. Ranga Reddy and Chadalavada Tirupathi Reddy and they obstructed to construct the Mandiram and stated that they would demolish the same in future also in the presence of Chinna Sundaraiah. At that time, defacto complainant's husband was out of availability, so she could not give the report and it is after his arrival, presenting the report.

4. As stated supra, report is dated 10-07-2014 and as per the F.I.R., the police station is within a distance of hardly 4 KMs to the place of occurrence and place of residence of de facto complainant and she did not state as to where her husband went from the date of alleged incident till the date of giving report and even according to her, though one Chinna Sundaraiah was present, why she could not give a report to police, that too, she is claiming as teacher in Z.P.H. school and not a lay woman and not a case of she is confined to house and not having any little worldly knowledge.

5. The police having registered the said crime filed the final report, that was taken cognizance by the Magistrate. As per the charge

sheet, it is cited as many as 18 witnesses including LWs 16 to 18 are the police officials, who registered the crime and investigated and filed final report and though she named LW.3 alone present as eye witness and stated her husband was not there and was not even in the village till the date she reported to police on 10.7.2014 from the incident date 22.06.2014 or 24.06.2014, as the case may be, her husband is shown, as if eyewitness in the police investigation, and even she did not state in the detailed F.I.R. about the presence of LWs 4 to 9. The investigation shows that they are also the eyewitnesses, along other witnesses LWs.10 to 15. LW.15 Tahsildar, who issued caste certificate in respect of LWs.1 and 2, A.1 and A.2, LW.10 is owner of the land and brother-in-law of accused persons and LWs.11, 12 and 13 are shown as one of the mediators and the two purchasers of some other extents from LW.10., whose testimony is no way relevant.

6. So far as the community certificate is concerned, the certificate issued by the Tahsildar in L.Dis.D/170/2014, dated 05.08.2014 shows de facto complainant is a converted Christian and she is BC-C though originally she belongs to SC so also her husband belongs to SC and accused persons 1 and 2 are Hindus (OCs).

7. From the very report of the alleged occurrence, and when from Tahsildar certificate dated 05.08.2014 addressed to the Sub-Divisional Police Officer, Markapur, LW.8 and LW.17, who obtained the same as part of investigation, that shows she is only BCC being a converted Christian and not SC, and even the MRO report, after enquiry, dated 04.08.2014 in N.PR. 242/2014 clearly speaks that she is BC-‘C’.

8. It is unknown how the police could file the charge sheet and further in her declaration to the Government of AP vide his certificate number 000802/98 filled by her duly with signature of her that she is Christian, basically a ‘Madiga’ and once she is converted as Christian-BC-‘C’, the offence under Section 3(1) of SC & ST Act has no

application even in reference to the ordinance referred to Section 3(1) (r) and (s), there is nothing to show the same ripened to enactment or as in force as on the date of alleged offence. The charge sheet is silent in this regard, as to when ordinance is issued and came into force and even from her report, there is nothing to show her Modesty was insulted either by words or gestures even to attract offence under Section 509 IPC, and there is nothing to show even to attract the offence under Section 506 IPC, any alarm caused to her or their acts were intended to cause alarm to her. Thereby entire investigation and final report for the offence supra is unsustainable and learned Magistrate in taking cognizance did not consider the same.

9. Having regard to the above, the continuation of PRC proceedings are nothing to abuse of process of law and are liable to be quashed to sub-serve the ends of justice .

10. Accordingly, this Criminal Petition is allowed and all the proceedings relating to PRC No.12 of 2015 on the file of the learned Additional Judicial Magistrate of First Class, Markapur against the petitioners/A.1 & A.2 are hereby quashed. The bail bonds of the petitioners/A.1 & A.2, if any, shall stand cancelled.

Miscellaneous petitions, if any pending in this Criminal Petition, shall stand closed.

JUSTICE Dr B. SIVA SANKARA RAO.

Date : 03-11-2015
Gvl