

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.13152 OF 2014

ORDER:

In this petition filed under Section 482 Cr.P.C., the petitioner/accused seeks to quash the proceedings in PRC.No.22 of 2014 on the file of VII Additional Chief Metropolitan Magistrate, Hyderabad.

2) The prosecution case is that on 10.06.2014 at about 9 AM the *defacto* complainant who belongs to Scheduled Caste went to Sri Venkateswara Swamy Temple, Santoshnagar, Hyderabad to have Darshan and perform archana. He went to ticket counter and there LW3—counter clerk was not available. At that time, the accused who was Chief Poojari was standing near Hanuman temple and noticing the complainant in the ticket counter, he called LW3—counter clerk who rushed to the counter. Complainant tendered Rs.11/- to LW3 and purchased Archana ticket No.6575 and on his insistence, LW3 mentioned the caste of complainant along with his name, his wife's name and gotram on the ticket. Thereafter, the complainant washed his hands and legs and made three rounds around Srivari Mandiram, Hanuman Mandiram and Dwaja Stambham and stood at Garbhagudi and requested the accused to perform archana to the God. Then it is alleged, accused insulted LW1 and refused to perform Pooja by saying that *I will not perform Archana sponsored by mala madiga community to the God* and went to Addalamandapam of temple and called LW4—Anil Kumara Swamy who came and performed archana to the complainant. The incident was witnessed by LW2—K.Yugender Reddy.

Hence the complaint. The police after investigation laid charge sheet against the accused.

3) Denying the charges, learned counsel for petitioner vehemently argued that due to disputes between rival groups in the temple committee, petitioner/accused was falsely implicated in the case.

Learned counsel tried to project certain instances to show that a false case was foisted against the accused. In this process, he firstly argued that the incident was allegedly occurred on 10.06.2014 at 9 AM, but the complaint was lodged belatedly on 12.06.2014 at 6 PM which would show that the complaint was fabricated.

b) Secondly, learned counsel submitted that even according to charge sheet, there were rival groups in the temple committee; one group was supported by complainant and another group was supported by accused and in that backdrop and in view of belated complaint, the genuineness of the complaint is highly doubtful. He further stated that as per the statement of LW3—counter clerk, generally they write the name of devotee and gotram, but the complainant deliberately insisted for inclusion of his caste on the ticket, which shows the oblique motive and evil intention of the complainant to implicate the accused. He submitted that generally a Priest will not know the caste of a person who brings seva ticket to perform that seva and the deliberate insistence of complainant to mention his caste in the seva ticket shows his evil mind. He argued that LWs.3 to 7 did not support the prosecution case and they have not witnessed the occurrence but only came to know through complainant which falsifies the case of the prosecution. He thus prayed to quash the proceedings.

4) Per contra, learned Additional Public Prosecutor and learned counsel for 1st respondent/ *defacto* complainant argued that statements of LWs.1 to 7 and other supporting evidence amply establishes the offence committed by the accused and the truth or otherwise of the prosecution evidence can be decided only after a full fledged trial and therefore, this petition is not maintainable.

5) In the light of above rival arguments, the point for determination is:

“Whether there are merits in this petition to allow?”

6) **POINT:** In a quash petition the relevant consideration is even if the material produced by the prosecution is uncontroverted, whether a

prima facie case is made out or not and if such a case is made out, it will not be appropriate for the Court to exercise its inherent jurisdiction to quash the proceedings. On the other hand, if the material did not disclose any iota of case against the accused, the Court in its plenary power can quash the criminal proceedings. The case of the petitioner has to be tested on the anvil of this cardinal principle. In that context a perusal of statements of complainant and LW2—K.Yugender Reddy who is said to be an eyewitness to the incident, would reveal a *prima facie* case against the petitioner/accused. They categorically stated as if the accused by refusing to perform Archana insulted the complainant by his caste name. Of course, learned counsel for petitioner tried to bring out certain circumstances to show that the version of complainant is false. However, in the considered view of this Court, those circumstances may help the accused as good defense during the trial but in this petition the veracity of prosecution case cannot be tested in the light of points raised by the learned counsel for petitioner, which will amount to transgressing into the domain of trial. So, in view of *prima facie* case found in the material produced by the prosecution, it is not a fit case to quash the proceedings. The petitioner/accused shall face trial and prove his innocence.

7) Accordingly, this Criminal Petition is dismissed.

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

U.DURGA PRASAD RAO,J

Dt.17-04-2015

Murthy