

HONOURABLE MRS JUSTICE ANIS

CRIMINAL PETITION No.2692 of 2015

ORDER:

This Criminal Petition is filed under Section 482 of Cr.P.C., to quash the proceedings against the petitioners - Accused Nos.2 to 4 in C.C. No.637 of 2012 on the file of the Judicial Magistrate of First Class, Bhadrachalam, Khammam District for the offences punishable under Sections 417 read with 109 and 323 & 509 read with 34 IPC.

Heard learned counsel for the petitioners and learned Public Prosecutor for the State.

Learned counsel for the petitioners argued that the petitioners are A-2 to A-4 and the 1st petitioner is the brother, the 2nd petitioner is the sister-in-law and the 3rd petitioner is the sister of A-1 and they are innocent and not committed any offence. It is further argued that after registering the case, the Investigating Officer investigated the matter and by deleting the names of the petitioners, had filed charge sheet against A-1 only for the offences under Sections 417 and 509 IPC, but the learned Magistrate without considering the report filed by the police has taken on file the offences under Sections 417, 323 and 509 against A-1 and the offences under Sections 417 read with 109 IPC, 323 and 509 read with 34 IPC against A-2 to A-4 and registered it as C.C. No.637 of 2012. He further argued that the petitioners are innocent and the

3rd petitioner is resident of Ramanthapur, Hyderabad and she is no way concerned with the offences, and the petitioners 1 and 2 are not involved in any of the offences much less the offences attributed to them, and therefore, he prayed the Court to quash the proceedings in C.C. No.632 of 2012 on the file of the Judicial Magistrate of First Class, Bhadrachalam, Khammam District, against the petitioners.

Learned Public Prosecutor argued that though the investigating officer filed charge sheet against A-1, learned Magistrate has taken cognizance against the petitioners – A-2 to A-4 also for the offences under Sections 417 read with 109 IPC, 323 & 509 read with 34 IPC, therefore, all these aspects have to be considered at

the time of trial, and at this stage, the petition cannot be entertained and prayed for dismissal of the petition.

A perusal of the record shows that the 2nd respondent - *de facto* complainant lodged a complaint with the police, Bhadrachalam Town, alleging that the accused committed the offence punishable under Section 3 (1) (x) (xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC and ST (PoA) Act') and other offences, and the same was registered as Crime No.116 of 2011 by the Police. The investigating officer after completing the investigation, filed charge sheet against A-1 only and stated that there is no case against the petitioners herein, including the offence under the SC and ST (PoA) Act.

A perusal of the record also shows that the learned Magistrate has taken case on file for the offences under Sections 417 read with 109 IPC, 323 and 509 read with 34 IPC against the petitioners - A-2 to A-4 and registered it as C.C. No.637 of 2012. The record also discloses that the 3rd petitioner is the sister of A-1 and she is resident of Ramanthapur, Hyderabad.

Considering the facts and circumstances of the case, the Criminal Petition is allowed in respect of the 3rd petitioner – Accused No.4 only and the proceedings against the 3rd petitioner – Accused No.4 in C.C. No.637 of 2012 on the file of the Judicial Magistrate of First Class, Bhadrachalam, Khammam District are quashed. The Criminal Petition in respect of petitioners 1 and 2 – Accused Nos.2 and 3 is dismissed.

Accordingly, the Criminal Petition is partly allowed. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

ANIS, J

April 16, 2015.

KTL