

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.13913 OF 2016

ORDER:

This criminal petition is filed under Section 482 of Cr.P.C to quash the proceedings in Crime No.74 of 2016 on the file of Shabad Police Station, Ranga Reddy District, for the offence punishable under Section 3(1)(r)(s) of SC/ST (POA) Amendment Act, 2015 (for short 'Act').

The 2nd respondent herein/defacto complainant lodged a complaint with the Shabad Police Station alleging that, on 03.07.2016 at about 9:30 AM, the petitioner abused the defacto complainant by raising his caste name in filthy language.

Per contra, the contention of the petitioner before this Court is that there was a civil dispute and the suit was decreed in favour of the petitioner and the appeal was also ended in favour of the petitioner. Having lost the civil proceedings, the 2nd respondent/defacto complainant lodged a false complaint against the petitioner.

However, the falsity in the complaint cannot be decided at this stage, since the allegations made in the complaint on its face value do not constitute an offence under Section 3(1)(r)(s) of the Act.

At this stage, learned counsel for the petitioner made a request to protect the liberty of the petitioner, as there is every apprehension of her arrest in connection with the above crime, as there is a bar under Section 438 of Cr.P.C.

In **Som Mittal v. Government of Karnataka**¹, the Apex Court while deciding the application to release accused on pre arrest bail relating to the State of Uttar Pradesh held that where there is no provision for grant of pre arrest in bail in criminal cases and while concurring with Justice H.K. Sema, His Lordship Justice Markandeya Katju followed the principle laid down in **Joginder Kumar v. State of Uttar Pradesh**² case wherein it was held as follows:

“no arrest can be made because it is lawful for the Police Officer to do so. The existence of the power to arrest is one thing and the justification for the exercise of it is quite another. The Police Officer must be able to justify the arrest apart from his power to do so. Arrest and detention in police lock up of a person can cause incalculable harm to the reputation and self esteem of a person. No arrest can be made in a routine manner on a mere allegation of commission of an offence made against a person. It would be prudent for a Police Officer in the interest of protection of the constitutional right of a citizen and perhaps in his own interest that no arrest should be made without a reasonable satisfaction reached after some investigation as to the genuineness and bona fides of a complaint and a reasonable belief both as to the persons complicity and even so as to the need to effect arrest. Denying a person of his liberty is a serious matter. The recommendation of the Police Commissioner merely reflects the constitutional concomitants of the fundamental right to personal liberty and freedom. A person is not liable to arrest merely on the suspicion of complicity in an offence. There must be a reasonable justification in the opinion of the officer effecting the arrest that such arrest is necessary and justified. Except in heinous offences, an arrest must be avoided if a police officer issues notice to a person to attend the Station House and not to leave Station without permission would do.??

In view of the guidelines laid down by the Apex court in both the judgments and taking into consideration the fact that the petitioner/accused is a woman, apprehending her arrest in connection with the above crime, where there is a prohibition to entertain application for pre-arrest bail, the police are directed

¹ AIR 2008 SC 1126

² AIR 1994 SC 1349

to follow the guidelines used by the Supreme Court in **Joginder Kumar's case** (referred supra).

With the above direction, the criminal petition is disposed of.

Consequently, miscellaneous petitions, if any, pending in this criminal petition, shall stand closed. No costs.

M. SATYANARAYANA MURTHY, J

Date:09.11.2016
SP

