

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.16628 OF 2016

ORDER:

This criminal petition is filed under Section 482 of Cr.P.C to quash the proceedings in Crime No.285 of 2016 pending on the file of Nellore IV Town Police Station, Nellore District.

The main ground urged in this petition is that the allegations made in the complaint would not constitute an offence punishable under Section 506 IPC, Sections 3(1)(s) & 2(va) of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'Act'). Further, the delay of seven days in lodging a complaint against the petitioners for the said offences is not explained and therefore, lodging such complaint is abuse of process of Court and prayed to quash the proceedings.

During hearing, learned counsel for the petitioners drawn attention of this Court to various allegations in the complaint dated 27.10.2016 while contending that the allegations in the complaint would not attract the offences and requested this Court to quash the proceedings against the petitioners, as the complaint is lodged only to wreck vengeance against the petitioners.

Whereas, learned Public Prosecutor for the State of Andhra Pradesh argued in support of the case of the respondents.

Though, notice was ordered to the defacto complainant/ second respondent on 08.12.2016 and the same was served, none appeared on behalf of him.

The facts of the case are that, on 20.10.2016, the second respondent being a servant maid was performing her duties at her owner's house in Flat No.401. It appears the husband and wife residing/the petitioners herein residing in the opposite flat bearing Flat No. 402 picked up quarrel with the second respondent regarding closure of windows and keeping flower pots in the common area of the flats. Further, the petitioners made a statement regarding second respondent that disputes arise only due to lower caste people and abused the second respondent by degrading her caste. Hence, the second respondent filed a complaint before the police.

Basing on the complaint lodged by the second respondent, Nellore II town Police registered Crime No.285 of 2016 under Section 506 IPC, Sections 3(1)(s) & 2(va) of the Act.

Section 506 IPC deals with punishment for criminal intimidation, whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Section 506 explained the punishment to be imposed if threat be to cause death or grievous hurt, as, if the threat to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which, may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

No doubt, punishment for the offence of criminal intimidation is under Section 506 IPC. But, in the instant case, the petitioners did not threaten the second respondent neither with any injury nor threatened to destruct her property with fire, except mentioning that on account of lower caste people disputes are arising among them. That would not attract the offence punishable under Section 506 of IPC i.e. criminal intimidation as defined under Section 503 IPC. The petitioners threatened to show their power if the second respondent closed the doors. Those words would not amount to criminal intimidation. Consequently, the petitioners are not punishable for the offence under Section 506 IPC, since the allegations made in the complaint on its face value, accepting in its entirety are not punishable under Section 506 IPC.

Section 3(1)(s) of the Act deals with abusing any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view. Therefore, the alleged offence would not fall within the ambit of Section 3(1)(s) of the Act.

The other offence committed by the petitioners is punishable under Section 3(2)(va) and it reads as under:

“Whoever, not being a member of a Scheduled Caste or a Schedule Tribe, commits any offence specified in the Schedule, against a person or property, knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such members, shall be punishable with such punishment as specified under the Indian Penal Code (45 of 1860) for such offences and shall also be liable to fine”

On a close scrutiny of the said provision, it is an offence relating to property belonging to Scheduled Caste person, but here, it is not a dispute regarding property belonging to Schedule Caste

person. Hence, the alleged offence does not fall within the scope of Section 3(2)(va) of the Act.

It is a settled law that inherent power under Section 482 of Cr.P.C can be exercised only in exceptional circumstances sparingly and the Apex Court in ***State of Haryana v. Bhajan Lal***¹ the Supreme Court considered in detail the provisions of Section 482 and the power of the High Court to quash criminal proceedings or FIR. This Court summarized the legal position by laying down the following guidelines to be followed by High Courts in exercise of their inherent powers to quash a criminal complaint, which reads as follows:

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non- cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under

¹ 1992 Supp. (1) SCC 335

which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

According to guideline No.1, if the allegations made in the F.I.R, if taken on its face value, accepting in its entirety would not constitute *prima facie* offence by exercising power under Section 482 Cr.P.C , the Court can quash the proceedings.

Here, as discussed above, the allegations made in the complaint would not constitute any offence punishable under Section 506 IPC and Sections 3(1)(s) & 3(1)(va) of the Act and therefore, the proceedings against the petitioners are hereby quashed.

Hence, the criminal petition is allowed.

Consequently, miscellaneous applications pending if any, shall also stand closed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:26.12.2016

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