

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.6026 of 2014

ORDER :

The Petitioners/ accused Nos.1 to 3 in Crime No.346 of 2012 of L.B Nagar Police Station, Cyberabad registered for the offences punishable under Sections 3 (i) (x) of SC & ST (Prevention of Atrocities) Act and Sections 323, 506 r/w 34 IPC, which is outcome of report of 1st respondent—de facto complainant, from the police final report filed after investigation even referring the case as false from the protest petition by adopting the procedure of private PRC in recording the sworn statements, by allotting PRC No.1 of 2013 for committal of the case to the Court of Sessions, by the learned Second Additional Metropolitan Magistrate, L.B Nagar; impugning the committal proceedings in taking cognizance for the offences supra by the Magistrate, filed the quash petition with contentions in the grounds that the proceedings are nothing but abuse of process and outcome of malafide advise hatched by de facto complainant for wrongful gain misusing the provisions and the learned Magistrate did not apply his mind for taking cognizance on the police final report, much less from the statements of the complainant and three witnesses on the protect application even after police final report referring the case as false, that there is no any caste abuse and there is no any public view and none of the ingredients are attracted and thereby, sought for quashing of the private PRC.

2) Learned counsel for the petitioners reiterated the same in the course of hearing. Whereas it is the contention of the learned counsel for the 1st respondent/ de facto complainant and the learned public Prosecutor representing the 2nd respondent—State, that for this Court while sitting against the cognizance order of the Magistrate there is nothing to interfere and hence to dismiss the quash petition saying it is devoid of merits.

3) Heard. Perused the material on record.

4) The crime registered from the private complaint dated 16.02.2012 for the offences supra referred for police investigation by learned Magistrate without assigning any reasons, that are required, in referring to police investigation for registering the Crime, though speaks abuse by accused persons by touching the caste name of the defacto complainant with intent to insult in public view.

5) The statements recorded during investigation by the Investigation Officer in filing the final report shows the alleged incident took place in the office of the accused in Vaishali Nagar, which is newly formed colony near to the main arch, the office located with open plots of either side without even offices and three witnesses secured revealed stating that the de facto complainant quarreled with the office staff regarding the repairs to his JCB machine and there was no any abuse touching his caste taken place and accused No.1 is not even in the office as he is in business tour in Karnataka State to say he also abused much less in caste name and thereby, it is a false case.

6) The protest petition filed by the de facto complainant that was taken cognizance by the learned II Metropolitan Magistrate, Cyberabad by order dated 09.01.2013 in CCSR No.2894 of 2012 in allotting the private PRC shows, from the statement of the complainant— LW.1 that he purchased a TATA JCB in the year, 2006 and another Tata vehicle in the year, 2010 from Tata showroom at Sagar Ring Road and the show room does not provide the spare parts since six months and he along with his friends Hanuma Naik, Keshavulu, Venkatesh went to Show room to question them about the spare parts, where accused No.1 abused him on caste name and accused Nos.2 and 3 also abused on caste name with intent to insult and on that he went to police station, but they did not take any action and thereby, he approached the Court and the private complaint forwarded to police and the police filed final report and the statements of LWs.1 to 3 would show the same that it is made out the offence under Section 3 (i) (x) of SC/ST (POA) Act.

7) A perusal of the sworn statements of LWs.1 to 3 claimed as Lambada went to question regarding spare parts and accused Nos.1 to 3 there abused them with intent to insult, it no way discloses from the impugned order covered by their sworn statements of presence of any other person to say it was in public view in the office of accused No.1 of the alleged abuses taken place against the victim. It is the law well settled by several expressions by this Court in ***Dr.I.V.Rao vs State of A.P.***^[1] of the intentionally insult either in public place or private place must be in public view to impugn and there must be some independent witness in whose presence the alleged abuses taken place.

8) Despite three persons stated the abuses of them and nothing states any third person as independent witness witnessing the occurrence of the alleged abuses and the learned Magistrate did not advert to it of no public view made out as rightly concluded by Investigating Officer in referring the case without charging the accused. Further, when it is not a private complaint, but on protest application after private complaint referred to police for investigation filed the final report of a false case laid, there is nothing to ignore totally the investigation material, but for if at all to examine those witnesses also as to any explanation if they did not so state before Investigating Officer; even to say how the investigation is tainted or unfair.

9) Having regard to the above, the cognizance taken by the learned Magistrate is unsustainable and the private PRC proceedings are quashed.

10) Accordingly and in the result, the Criminal Petition is allowed and all the proceedings relating to Crime No.346 of 2012 of L.B Nagar Police Station, Cyberabad against accused Nos.1 to 3 are hereby quashed. The bail bonds of the petitioners/ accused Nos.1 to 3, if any, shall stand cancelled.

11) Miscellaneous petitions, if any pending in this Criminal

Petition, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:05.01.2016
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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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