

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.15546 of 2016

ORDER:

This Petition is filed under Section 482 Cr.P.C. to quash the proceedings in FIR No.155 of 2016 for the offences punishable under Sections 323, 341 of IPC and Section 3 (1) (r) (s) (t) of SCs and STs Amendment Act, 2015 pending on the file of Marpally Police Station, Ranga Reddy District.

2. The case of the *de facto* complainant is that while Golla Ashaiah was proceeding through his agricultural land with cattle, he questioned him as to why destroyed the crop, he abused in filthy language raising his caste and thereafter he informed the same to Golla Ananthaiah, Golla Mallaiah, Golla Jaraiah, Boyini Srinivas, Golla Ramulu, Golla Ravi, and Golla Krishnaiah and later when the *de facto* complainant was going to house from the Peddapur, the said persons objected him and the A.2 allegedly abused raising his caste name and thereafter all of them beat him indiscriminately. Thus, the allegations made in the FIR on the face value would constitute an offences under Sections 323, 341 of IPC and Section 3 (1) (r) (s) (t) of SCs and STs Amendment Act, 2015.

3. The main contention of the learned counsel for petitioners is that the incident as stated by *de facto* complainant never took place and a false case was foisted against them due to political rivalry in the village and based on such complaint, the petitioners cannot be put to hardship and it is nothing but abuse of process of the Court.

4. The allegations, which extracted in the earlier para, would constitute an offence punishable under different sections, as stated above. Undisputedly, the *de facto* complainant belongs to scheduled caste. But the contention of the petitioners is that they were not aware of the caste of *de facto* complainant, but it is not proper stage to consider whether the accused have knowledge about the caste of *de facto* complainant or not and it is to be established only after full fledged trial. Therefore, on this ground, the proceedings cannot be quashed.

5. The next ground urged before this Court is that due to political rivalry between the petitioners and *de facto* complainant, but it is not supported by any iota of evidence regarding disputes between the *de facto* complainant and the accused.

6. Finally, it is contended that when many persons allegedly beat the *de facto* complainant, he would have sustained more than one injury but not one. Though the accused contended that *de facto* complainant sustained only one injury, no wound certificate is produced before this Court to accept their contention that *de facto* complainant sustained only one injury when he was beaten by more than one person, but it is not a ground to quash the proceedings at this stage.

7. On overall consideration of the material available on record, it is evident that the allegations made in the complaint is true on its face value, would constitute offences punishable under Sections 323, 341 of IPC and Section 3 (1) (r) (s) (t) of SCs and STs Amendment Act, 2015 and this Court can exercise its jurisdiction under Section 482 Cr.P.C. sparingly under exceptional

circumstances, as laid down in **R.P.Kapur v the State of Panjab**¹, which are as follows:

i) **Where there was a legal bar against the institution or continuance of the proceedings; and**

(ii) **where the allegations in the first information report or complaint did not make out the offence alleged; and**

(iii) **where either there was no legal evidence adduced in support of the charge or the evidence adduced clearly or manifestly failed to prove the charge”.**

8. In **State of Hariyana and Bajan Lal**², the Apex Court laid down seven guidelines to exercise jurisdiction while dealing Petitions under Section 482 Cr.P.C by the High Courts. But here, Guideline No.1 is relevant, where it is specifically held that the allegations made in the FIR or complaint even if they are taken on their face value and accepted their entirety do not *prima facie* constitute any offence or make out a case against the accused, the Court can exercise jurisdiction under Section 482 Cr.P.C. But here, by applying the principle to the present facts and circumstances of the case, petitioner No.2 allegedly abused the *de facto* complainant raising his caste name and the other accused including petitioner No.2 obstructed the *de facto* complainant and abused him by raising his caste name and all the accused beat the complainant indiscriminately. Such facts on its face value if accepted in its entirety would constitute offences as stated above. Therefore, I find no ground to quash the proceedings at this stage.

¹ AIR 1960 SC 866

² 1992 SCC (CrI) 426

9. At this stage, the learned counsel for petitioners requested the Court to direct the concerned Police to follow the procedure contemplated under Section 41-A of Cr.P.C and guidelines issued by the Apex Court in ***Arnesh Kumar vs. State of Bihar and another***³. Acceding to the request, I deem it appropriate to direct the concerned police to follow the guidelines issued by the Apex Court in **Arnesh Kumar's** case referred to supra.

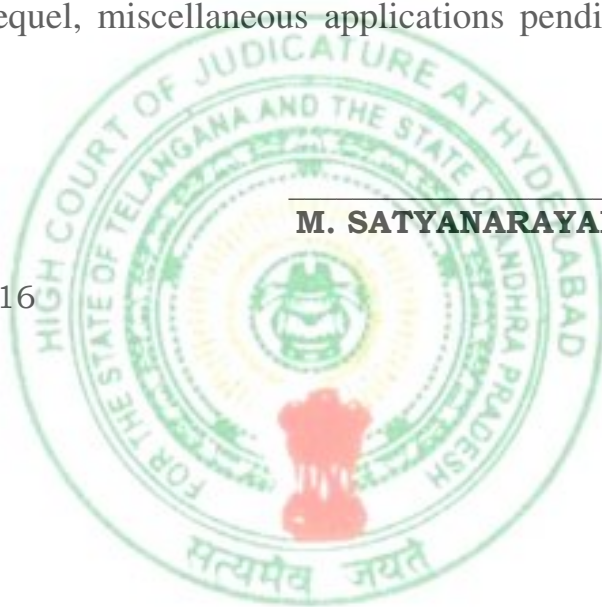
10. With the above direction, this Criminal Petition is disposed of.

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

M. SATYANARAYANA MURTHY, J

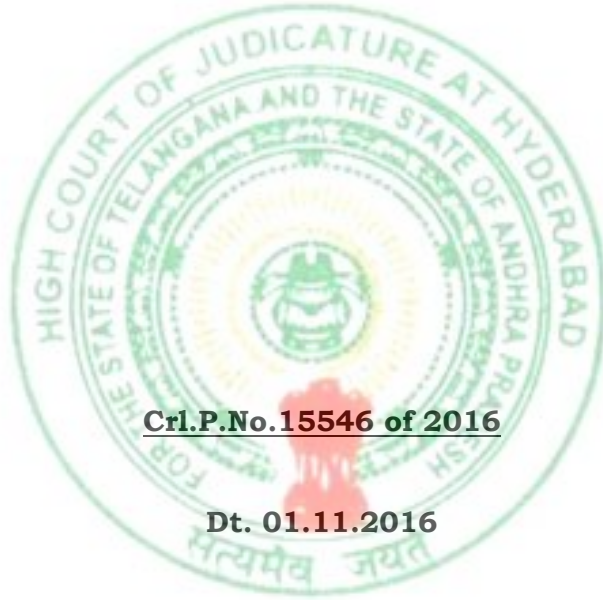
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³ 2014(8) Scale 250

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