

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION No.31 of 2014

ORDER:

This Criminal Petition is filed by A.1 and A.2 under Section 482 Cr.P.C. to quash the proceedings in P.R.C.No.28 of 2013 pending on the file of Additional Judicial First Class Magistrate, Srikakulam.

Heard.

The case of the prosecution is that the complainant is working as maid-servant in the house of Dr.Danwantri, whose grandson married A.1 in the year 2003. A.2 is the father of A.1. Some differences arose between A.1 and her husband and they left to U.K. and later A.1 came to India. Keeping grudge against the master of complainant, A.1 and A.2 abused the complainant in filthy language by touching her caste name and they also proclaimed as the complainant had illegal intimacy with some others. Hence, the complaint against A.1 and A.2 for the offence under Section 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Learned counsel for the petitioners submits that in the earlier round of litigation, with the similar allegations, complainant lodged a complaint in Crime No.47 of 2009 and after investigation, police referred it as 'false' and though the same was intimated to the complainant, she has not taken any further action in that matter. Immediately, in the month of January, 2010, she has chosen to lodge the present complaint with similar allegations. The entire reading of the evidence adduced by the witnesses, except P.W.1, none of the witnesses deposed before the Court regarding any specific abusive words as attributed by the complainant.

A mere reading of the complaint and also the evidence adduced by the witnesses, it is evident that the de facto complainant was used as a weapon by the persons those who are inimical to the petitioners herein in view of the matrimonial disputes arose between the parties. The present complaint was also referred as 'false' by the investigating agency after due enquiry. On filing the protest petition, the learned Magistrate has taken cognizance of the offence. When the matter was referred by the police in two occasions as

false, if at all, the learned Magistrate wants to take cognizance of the offence on the basis of the sworn statement of the complainant, it is the bounden duty of the learned Magistrate to refer the final report filed by the police concerned and even though some of witnesses deposed before the Court to implead the petitioners for the alleged offences, it is always necessary for the officer concerned to find out the opinion of the investigating officer regarding the veracity of the said statements recorded during the course of investigation. In the case on hand, the learned Magistrate, has not taken into consideration the final report filed by the police and simply he has accepted the entire evidence adduced by the complainant. In that view of the matter, this Court is of the view that the impugned proceedings are liable to be quashed.

In the result, the Criminal Petition is allowed and the proceedings in P.R.C.No.28 of 2013 pending on the file of Additional Judicial First Class Magistrate, Srikakulam are hereby quashed as against the petitioners herein.

Pending miscellaneous petitions, if any, shall stand closed.

RAJA ELANGO,J

17.02.2016.

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