

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.523 of 2015

ORDER:

The present Criminal Revision Case is filed under Sections 397 and 401 of Cr.P.C. aggrieved by the order dated 23.01.2015 passed in Crime No.136 of 2013 of III Town Police Station, Nellore, whereby the learned II Additional Judicial Magistrate of I Class, Nellore, took cognizance of the case against A.1 to A.3 for the offences punishable under Sections 448, 323, 506 IPC and Section 3 (1) (x) of SCs & STs (POA) Act, 1989 and issued summons.

Heard.

As seen from the record, originally a case in crime No.136 of 2013 of III Town Police Station, Nellore, came to be registered for the offences punishable under Sections 448, 323, 506 IPC and Section 3 (1) (x) of SCs & STs (POA) Act. After investigating into the crime, Police filed charge sheet against A.1 by deleting the names of A.2 and A.3 on the ground that during the course of investigation, it was revealed that there were disputes between LWs 2 and 3 and one Avula Audi Raju in connection with rights over the building and RCC No.18/11 is pending on the file of Principal Junior Civil Judge's Court, Nellore, and in the said case the A.2 and A.3, who are the parents of A.1, supported A.1 and as such they were also implicated in the case. Averments in the charge sheet also show that as per the statements of LWs 4 to 6, A.1 alone was involved in the offence. Hence, by deleting the names of A.2 and A.3, the investigating agency filed charge sheet only against A.1. However, the learned Magistrate, after perusal of

the material on record and the statements of LWs 1 to 3, found that the petitioners were also involved in the commission of offence.

It is to be noted that at the time of taking cognizance of the matter, the Court has to see whether there is any *prima facie* case against the accused and the Court is not required to come to a conclusion as to whether the accused can be found guilty of the offence. The statements of LWs 1 to 3 speak about the involvement of all these petitioners in the commission of offence. A reading of 161 Cr.P.C. statement of LW.1 would show that on 27.06.2013 while LW.1 was working in his shop, A.1 and his parents, entered into the shop, abused him by touching his caste and also beat him. Similarly LW.2 stated that on 27.06.2013 at about 9.30 a.m. when himself and his mother were in the house, they heard some noise and came outside. They found A.1 and his parents trespassing into the shop of Balakrishna, abusing him by touching his caste and also beating him with legs and hands. Then, he and his mother intervened and sent them out. The statement of LW.3 corroborates the statement of L.W.3 on all aspects.

Since three witnesses spoke about the presence and participation of A.2 and A.3 in the commission of offence, the Court below has rightly held that the Prosecution agency erred in deleting the names of A.2 and A.3 and took cognizance of the offence against all the accused for the offences punishable under Sections 448, 323, 506 IPC and Section 3 (1) (x) of SCs & STs (POA) Act, 1989. Hence, I see no reason to interfere with the view taken by the learned Magistrate.

Accordingly, the Criminal Revision Case is dismissed.

Consequently, the miscellaneous petitions pending in this revision, if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

14.09.2016
sur

