

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL APPEAL NO.844 OF 2016

ORDER:

This appeal is filed against the order passed in CrI.M.P.No.70 of 2016 in Crime No.66 of 2015 of Mills Colony Police Station, Warangal, dated 14.06.2016 by the Special Sessions Judge for Trial of cases under Scheduled Castes and the Scheduled Tribes (POA) Act – cum – VII Additional Sessions Judge, Warangal.

The appellant/petitioner filed a private complaint against the accused for the offences punishable under Sections 3 (1) (viii), 3 (1) (ix), 3 (1) (x), 3 (2) (v) of the Scheduled Castes and the Scheduled Tribes (POA) Act (for short “S.Cs. and S.Ts. (POA) Act) and under Sections 211, 307, 350, 420, 499, 500, 503, 506 read with 34 of I.P.C. the same was referred by the Magistrate to the police under Section 156 (3) of Cr.P.C. On the basis of the said complaint, police registered the crime and issued F.I.R.No.66 of 2015. During the pendency of the proceedings, the appellant/petitioner filed CrI.M.P.No.70 of 2016 requesting the Sessions Judge to take action under Section 4 (3) of S.Cs. and S.Ts.(POA) Act against the Police officials, who are allegedly negligent in discharging their duties. Thereupon, the Sessions Judge called for report from Commissioner of Police. The Commissioner of Police submitted a report to the Court explaining the reason for the delay in filing the charge sheet while finding that the police officials are not guilty of any negligence in conducting investigation in the said crime. On the strength of the said report, Sessions Judge dismissed the petition filed by the appellant/petitioner giving liberty to the petitioner to proceed against the respondents therein under the provisions of S.Cs and S.Ts (POA) Act.

Aggrieved by the order passed in Crl.M.P.No.70 of 2016 in Crime No.66 of 2015 of Mills Colony Police Station, Warangal, dated 14.06.2016 by the Special Sessions Judge for Scheduled Castes and the Scheduled Tribes (POA) Act cases – cum – VII Additional Sessions Judge, Warangal, the present appeal is filed on various grounds.

The main contention of the appellant/party-in-person is that the Court ought to have taken cognizance of the offences based on the petition filed by him, instead of taking cognizance against police officials, the Court below dismissed the petition while giving liberty to approach the appropriate forum under S.Cs. and S.Ts. (POA) Act, such procedure is not contemplated under the Act, thereby the order under challenge is liable to be set aside and prayed to set aside the same.

The order under challenge is only an order passed in Crl.M.P.No.70 of 2016 filed under Section 4 (3) of S.Cs. and S.Ts. (POA) Act. Hence, I deem it appropriate to advert to the provisions of the Act, without touching the maintainability of the appeal.

Section 4 of the S.Cs and S.Ts. (POA) Act deals with punishment for neglect of duties, which reads as follows:

“4.Punishment for neglect of duties:- Whoever, being a public servant but not being a member of Scheduled Caste or a Scheduled Tribe, willfully neglects his duties required to be performed by him under this Act, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year.”

Sub-Section (3) of Section 4 of the S.Cs and S.Ts (POA) Act reads thus:

“(3) The cognizance in respect of any dereliction of duty referred to in sub-section (2) by a public servant shall be taken by

the Special Court or the Exclusive Special Court and shall give direction for penal proceedings against such public servant.”

Sub-section (2) of Section 4 of the S.Cs. and S.Ts. (POA) Act specified the duties of the public servant to be performed under the provisions of the Act, they are as follows:

“(2) The duties of public servant referred to in sub-section (1) shall include-

- (a) to read out to an informant the information given orally, and reduced to writing by the officer in charge of the police station, before taking the signature of the informant;
- (b) to register a complaint or a First Information Report under this Act and other relevant provisions and to register it under appropriate sections of this Act;
- (c) to furnish a copy of the information so recorded forthwith to the informant;
- (d) to record the statement of the victims or witnesses;
- (e) to conduct the investigation and file charge sheet in the Special Court or the Exclusive Special Court within a period of sixty days, and to explain the delay if any, in writing;
- (f) to correctly prepare, frame and translate any document or electronic record;
- (g) to perform any other duty specified in this Act or the rules made thereunder:

Provided that the charges in this regard against the public servant shall be booked on the recommendation of an administrative enquiry.

Proviso annexed thereto further says that the charges for dereliction of duties against the public servant shall be booked on the recommendation of an administrative enquiry. In the present case, Sessions Judge called for the report of the Commissioner of Police, and the Commissioner of Police after enquiry submitted a report, but the report says that none of the police officials are at fault in discharging their duties as specified in sub-section (2) of Section 4 of the S.Cs and S.Ts. (POA) Act. Therefore, no recommendation was made by the administrative authority in the

administrative enquiry. In such case, the Court is not competent to take cognizance of the offence as the recommendation of the administrative authority is otherwise. Filing of an application alleging that the investigating officer did not file the charge sheet within the specified time itself is not sufficient as the administrative enquiry report is against the appellant/petitioner. In such case, the appellant herein may avail appropriate remedy available under law.

Therefore, in the absence of any administrative recommendation by the Commissioner of Police, the Sessions Judge is not competent to take cognizance against the police official. Hence, I find no ground to set aside the order passed by the Sessions Judge as the order passed by him is in accordance with law and does not call for any interference of this Court. Consequently, the appeal is liable to be dismissed. However, it is open to the appellant/petitioner to take appropriate steps as per law.

In the result, appeal is dismissed giving liberty to the appellant/petitioner to approach the appropriate forum. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

09.02.2017
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