

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.2389 OF 2017

ORDER:

The present petition is filed under Section 482 of the Criminal Procedure Code, 1973 (for short, 'the Code') requesting to quash the First Information Report in Crime No.18 of 2017 of Adoni I-Town P.S., Kurnool District.

2. The petitioners are arraigned as accused Nos.1, 3 & 4 in the aforesaid crime. They along with accused No.2 alleged to have committed the offence punishable under Section 153A read with Section 34 of I.P.C.

3. Heard Smt. Vasudha Nagaraj, the learned counsel for the petitioners, and the learned Additional Public Prosecutor for the State of Andhra Pradesh.

4. The learned counsel has drawn attention to the contents of the complaint, as reflected in the First Information Report to the effect that the petitioners herein along with one Kapapi Basha who is the 2nd accused and some others distributing pamphlets, pasted posters at different places and at different mosques mentioning therein that whether the police are existing to control the police or to control the rowdies or to prepare the rowdy-sheets and thereby promoting enmity between different groups on grounds of religion by means of visible representations and doing acts prejudicial to maintenance of harmony

on ground of religion and the pamphlets, posters and photos were taken by the day beat PC-3801 and PC-227 of Adoni I-Town P.S., and were submitted along with special reports for taking further action as per law. This has been recorded in the First Information Report and detailed in the complaint in vernacular language (Telugu). The learned counsel has drawn attention to the provisions of Section 153A, which read thus:

“153A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.—(1) Whoever—

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity, or

(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,]shall be punished with imprisonment which may extend to three years, or with fine, or with both. **Offence committed in place of worship, etc.—(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.”**

5. The learned counsel would submit that none of the ingredients of Section 153A are available in the present complaint and it is nothing but harassing the petitioners on the ground that the petitioners questioned the very functioning of the police which caused embarrassment and thereby implicated the petitioners.

6. The learned Additional Public Prosecutor for the State of Andhra Pradesh would resist the request stating that it is not as though the issue in the complaint only relates to the functioning of the Police Department or performing duties of the police or maligning the police concerned, but the statements recorded under Section 161 of the Code by the police would clearly satisfy the requirements of Section 153A of I.P.C. The learned Additional Public Prosecutor submitted the case diary for perusal of the Court.

7. The statement of L.W.4 recorded under Section 161(3) of the Code by name Mr. Jamal Ahmed S/o. M. Basheer, who is a resident of Bar Pet Locality, Adoni Town, Kurnool District would show that the 1st petitioner used to visit his shop near Jama Masjid and commit the communal riots that took place during the previous Ganesh festival celebrations and the police opening rowdy-sheets against the persons belonging to both communities i.e., Hindus & Muslims, but used to complain that the police opening rowdy-sheets more in number so far as Hindus are concerned compared to rowdy-sheets opened against the Mohammedans and thus great injustice was done to them and thereby told him by giving certain pamphlets and

requested him to paste them in Jama Masjid walls and distributed them to all and that on 5.2.2017 in K.K. Building Function Hall he would organize a meeting and asked him to request the persons belonging to Mohammedan community to come to public meeting in large number and, thus, attempted to promote or instigate the feelings of the Muslim community and behaved in such a manner so as to create hatred between two communities and even distributed pamphlets on 3.2.2017 when Muslims used to perform Namaz at 1.00 p.m.. Thus, the statement of even L.W.5 K. Laxmamma also would support the same. This apart, the case diary contain the order of the Sub-Divisional Police Officer, Adoni, dated 10.2.2017 according permission to open rowdy-sheet against the 1st petitioner herein. The learned Additional Public Prosecutor would submit that has been the reason why the petitioners have come up with such pamphlets and, therefore, there are *prima facie* allegations. It is also his submission that against the 1st petitioner five crimes were already registered.

8. The case diary would show that besides the present Crime, Crime No.93 of 2013 of Isvi P.S. for the offences punishable under Sections 324, 427, 452, 506 read with Section 34 of IPC; Crime No.19/2014 of Isvi P.S. for the offences punishable under Sections 323, 448, 427, 506 read with Section 34 of IPC and Section 3 (1) (x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act; Crime No.203 of 2015 of Adoni I-Town P.S. for the offences punishable under Sections 143, 153A, 188 read with Section 34 of

IPC; and Crime No.233 of 2015 of Kurnool II-Town P.S. for the offence punishable under Sections 506 read with Section 34 of IPC and 3 (1) (x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act have been registered. Thus, the statements of L.Ws. 4 and 5 recorded under Section 161 of Cr.P.C. would show *prima facie* allegations against the petitioners in commission of the alleged offence under Section 153A of IPC requiring to proceed with investigation and at this stage it is difficult to hold that there are no allegations to view that the investigation into crime would amount to abuse of the process of law.

9. Hence, the Criminal Petition is dismissed.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition stand closed.

A. SHANKAR NARAYANA, J

Dt. 03.04.2017

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