

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 46400 of 2016

Order:

Heard learned counsel for the petitioner, learned Government Pleader for Home appearing for the respondents 1 to 4 and learned counsel for the fifth respondent.

The Writ Petition was filed challenging the registration of Crime No.249 of 2016 by the Nelakondapally Police, the fourth respondent on the complaint lodged by the fifth respondent. The complaint was registered under Section 294(b) IPC and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act').

Learned counsel for the petitioner submits that the complaint was lodged on 10.11.2016 in respect of the incidents that occurred on 16.10.2016 and 03.11.2016. He further submits that except mentioning the caste name, there is no allegation with regard to misuse of the provisions of the Act.

Learned counsel appearing for the fifth respondent submits that the petitioner ill-treats the scheduled caste community people and he was once convicted on 10.09.2014 in S.C.No.46 of 2013 by the Special Sessions Judge for trial of cases under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act-Cum-Additional Sessions Judge, Khammam. However, the appeal against the said order is pending.

Be that as it may, this Court carefully perused the complaint lodged by the fifth respondent and a perusal of the complaint does not show that registration of the crime is bad in law. However, with regard to application of the provisions of the Act, except reference on one occasion

as to the caste of the complainant, there are no specific instances mentioned in the complaint. In any event, since the matter is under investigation, this Court cannot interfere with the investigation and the fourth respondent is directed to conduct the investigation in accordance with law. But, in view of *prima facie* opinion of this Court with regard to application of the provisions of the Act, the fourth respondent is directed not to arrest the petitioner pursuant to the investigation without obtaining appropriate orders from the concerned Magistrate.

The Writ Petition is, accordingly, disposed of. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

Date: 07.03.2017
Nsr

A. RAMALINGESWARA RAO, J

