

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.42615 of 2016

ORDER

This writ petition is filed calling for the records in Special S.C.No.3 of 2005 on the file of the Special Judge for SC and ST offences-cum-IV Additional District Judge, Kadapa, Y.S.R. District and quash the same.

It is the case of the petitioners that based on the complaint given by the 3rd respondent, a case in Cr.No.79 of 2001 was registered against the petitioners for the offences punishable under Sections 147, 384, 452 & 395 read with 149 IPC and Section 3 (i) (x) and (xv) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989. After investigation, charge sheet was filed before the I Additional Judicial Magistrate of First Class, Kadapa, and the same was numbered as PRC No.23 of 2002 and committed to the Court of I Additional Sessions Judge, Kadapa. It was numbered as Special S.C.No.108 of 2002. While so, the 2nd respondent filed Criminal Revision Petition No.2 of 2003 on the file of the Principal District and Sessions Judge, Kadapa, YSR District, challenging the committal order passed by the I Additional Judicial Magistrate of First Class, Kadapa, as well as cognizance

taken by the I Additional Sessions Judge, Kadapa, on the ground that the Additional or Assistant Sessions Judge would get jurisdiction to try the cases only after the Sessions Judge takes cognizance of the offences under Section 193 of Criminal Procedure Code and made over the case to them and as the procedure was not properly followed, the same would vitiate the entire proceedings. Thereafter, the Principal District and Sessions Judge, Kadapa, referred the matter under Section 395 (2) of the Criminal Procedure Code to this Court and the same was pending consideration.

Due to the constitution of the Special Courts for trial of SC and ST cases, S.C.No.108 of 2002 was transferred to the Special Judge for SC and ST offences-cum-IV Additional District Judge, Kadapa, and re-numbered as S.C.No.3 of 2005. It is the case of the petitioners that as the reference made by the Principal District and Sessions Judge, Kadapa, is pending consideration before this Court, the Special Judge for SC and ST offences-cum-IV Additional District Judge, Kadapa, is not proceeding with the trial and hence the petitioners are attending the Court on each and every adjournment, which is causing much inconvenience and hardship to them.

Learned Principal District and Sessions Judge, Kadapa, passed an order on 12.06.2003 in Criminal Revision Petition No.2 of 2003, the operative portion of which reads as under:

“For the foregoing reasons, I am to submit that the Honourable High Court may quash (1) the committal order dated 18.11.2002 in PRC No.23/2002 committing the case to the specified Court of Session presided over by 1st Additional Sessions Judge, Cuddapah, (2) cognizance of offences taken by 1st Additional Sessions Judge by assigning Spl.S.C.No.108/2002, without committal of the case to the Court of Session presided over by Sessions Judge and without making over the same u/s. 194 Cr.P.C by Sessions Judge as held in *Re Pasupuleti Nanjappa* and (3) to direct disposal of the case in accordance with law. It may also be stated in this context that I made reference while I was presiding over as II Additional Sessions Court, Chittoor Sessions Division at Madanapalli which is on the same question of law and which is now pending consideration before the Honourable High Court in Crl.R.C.No.242/01.

The entire material part of record, duly indexed shall be submitted to Honourable High Court.”

However, in another case, a Division Bench of this Court in Crl.R.C.No.242 of 2001 *vide* order dated 18.9.2006, on a reference made by the learned Single Judge, held that the order of committal passed by the Magistrate dated 16.11.1999 was perfectly legal and the learned I Additional Sessions Judge, Chittoor Division (Special Court for trying offences under Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act, should proceed with the trial on the basis of the committal order passed by the Magistrate on 16.11.1999.

In view of the decision of the Division Bench in the above case, the learned Principal District and Sessions Judge, Kadapa, shall take note of the view of the Division Bench of this Court in the aforesaid CrI.R.C.No.242 of 2001 while considering Criminal Revision Petition No.2 of 2003, pending before him and pass appropriate orders, in accordance with law.

Accordingly, the Writ Petition is disposed of. No costs.

Miscellaneous petitions, if any, pending shall stand closed.



JUSTICE A.RAMALINGESWARA RAO

17th April, 2017
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