

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.7039 OF 2011

ORDER:

This petition is filed under Section 482 of Cr.P.C. to quash the proceedings in Cr.No.275 of 2011 of Subedari Police Station, Warangal Urban District, registered for the offence allegedly committed by the petitioners under Section 3 (i) (x) of the Scheduled Castes and the Scheduled tribes (Prevention of Atrocities) Act,1989.

The case of the prosecution, in brief, is as follows:

The 2nd respondent lodged a complaint alleging that he is working as watchman under the control of the petitioner, he attended duty on 5-8-2011. On 6-8-2011 at about 10-30 A.M., when he completed his duty as night watchman at about 10.50 A.M., the petitioner called him by phone and asked to come to the office, then he went to the office and met the petitioner where the petitioner abused the second respondent as *"AREY MADIGA LANJAKODAKA NEEKU BALUPU YEKKUVAGA UNDIRA"*, slapped him and demanded to clean the toilets. Basing on the complaint given by the second respondent, the police registered the same as a case in the above crime.

The main contention of the petitioner before this court is that he is working as Controlling Officer of the 2nd respondent and his duty is to supervise the work of the subordinate staff working under him. The contention of the petitioner is that it is purely a dispute regarding service matter and in support of his contention, he placed reliance on two judgments of this court in *Dr.L.V.RAO v. STATE OF*

A.P. REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF A.P., HYDERABAD AND OTHERS ⁽¹⁾ and in *K.ARAVINDA RAO v. A.SUNDER KUMAR DAS AND ORS.* ⁽²⁾, where a complaint was lodged by the Deputy Superintendent of Police against Additional Deputy General of Police (Intelligence) alleging that as he belongs to Scheduled Caste, promotion was denied to him, but the Division Bench of this court held that it is purely a service dispute and taking cognizance of the said offence against Additional Deputy General of Police (Intelligence) is illegal.

Learned counsel for the petitioner would contend that the offence allegedly committed by the petitioner under Section 3(i) (x) of the Scheduled Castes and Scheduled Tribe (POA) Act is not supported by any material and that the petitioner intentionally insulted the 2nd respondent in a public view to humiliate him is false.

Here, the incident allegedly took place within the office room i.e., chambers and, therefore, it is not within the public view and as such, the incident would not attract an offence punishable under Section 3(i) (x) of the SC/STs. (POA) Act. In *Dr.L.V.RAO v. STATE OF A.P. REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF A.P., HYDERABAD AND OTHERS* (1st cited), this court considered the scope of Section 3(i) (x) of the Scheduled Castes and Scheduled Tribe (POA) Act where the facts of the said decision are almost identical to the decision of Division Bench of this court regarding promotion but there is no allegation that the petitioner was insulted or humiliated within public view.

¹ 2016 (1) ALT (Crl.) 340 (A.P.)

² LAWS (APH)-2015-1-16

However, the principle laid down in the judgment referred supra, may not have any direct application to the present case but as per the complaint, the alleged incident took place within the office room and therefore, that cannot be said to be within the public view. In such a case, the court can quash proceedings by exercising power under Section 482 of Cr.P.C. by applying the principles laid down by the apex court in *STATE OF HARYANA Vs. BHAJAN LAL*⁽³⁾, wherein the apex court, after analyzing the entire case law, has laid down certain guide lines that High Court may exercise its power under Section 482 of Cr.P.C. and interfere with the proceedings relating to the offence to protect any person against unnecessary harassment of unscrupulous or disgruntled fellow employees and the abuse of process of court.

In a decision reported in *STATE OF KARNATAKA V. LMUNISWAMY & ORS.*⁽⁴⁾, the apex court held that in exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed.

In view of the principles laid down by the apex court in the judgment i.e, *STATE OF KARNATAKA V. LMUNISWAMY & ORS.* (4th cited), when the incident alleged to have taken place not within the public view, the complaint is liable to be quashed by exercising power under Section 482 of Cr.P.C.

³ (1992) SUPP (1) SCC 335

⁴ AIR 1977 SC 1489

Now it has become a threat of every officer from the staff to those belonging the Scheduled Castes and Scheduled Tribes which drastically effected the administration in the offices and any officer demanding employee belonging to those castes, they are simply lodging complaints against the supervising officers whereby they have to face criminal charges and there is a bar for granting a pre-arrest bail in view of Section 18 of the SC/STs (POA) Act also. Thus, it is difficult for any officer to discharge their duties effectively on account of these anomalous situation and it would lead to anarchy in day to day administration and in discharging their official duties. Therefore, to avoid such anarchy and to have effective control over the staff by the supervisors irrespective of they belonging to any caste or community, I find that it is a fit case to quash the proceedings exercising power under Section 482 of Cr.P.C. as the allegation made against the petitioner would amount to abuse of process of court.

Accordingly, this Criminal Petition is allowed, quashing the proceedings in Cr.No.275 of 2011 of Subedari Police Station, Warangal Urban District.

As a sequel to the disposal of this petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE M.SATYANARAYANA MURTHY

Dated 24-4-2017.

Dvs.

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY



CRIMINAL PETITION No.7039 OF 2011

Dated 24-4-2017.

Dvs