

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

WRIT PETITION No.17952 of 2017

ORDER:

1 This petition is filed under Article 226 of the Constitution of India seeking to quash the proceedings against the petitioner in Cr.No.74 of 2017 on the file of Station House Officer, Pahadi Shariff Police Station, Rachakonda registered for the offences punishable under Sections Section 3 (1) (R) & (S) of Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act and Section 323 IPC.

2 The learned counsel for the petitioner submitted that the allegations made in the complaint do not constitute any offences much less the offences alleged to have been committed by the petitioner under the S.C & S.T (PoA) Act. He further submitted that the third respondent – de-facto complainant foisted a false case against the petitioner due to business rivalry.

3 The learned Assistant Government Pleader submitted that the allegations made in the complaint, prima facie, constitute the offences alleged to have been committed by the petitioner.

4 A perusal of the record reveals that the petitioner is the sole accused and the 3rd respondent is the *de-facto* complainant in Cr.No.74 of 2017. The record further reveals that the third respondent worked as driver under the control of the petitioner for some time. At present the third respondent owned a car and using the same as transport vehicle and eking out his livelihood. As per the allegations made in the complaint, on 12.2.2017 the petitioner telephoned to the third respondent and abused him in the name of his caste. It is further alleged that on the same day the petitioner bet

the third respondent and insulted him in the name of his caste in the presence of passengers.

5 While deciding the petition filed under Article 226 of the Constitution of India the Court has to take into consideration the allegations made in the complaint. The Court is not justified in embarking upon an enquiry to ascertain the truthfulness or otherwise of the allegations made in the complaint. The very purpose of investigation is to ascertain the truthfulness or otherwise of the allegations made in the complaint. The allegations made in the complaint are prima facie sufficient to investigate into the matter.

6 Having regard to the facts and circumstances of the case on hand and also the principle laid down in **R.P.Kapoor v. State of Punjab¹**, **State of Haryana v. Bhajan Lal²**, **V.Y.Jose v State of Gurajat³** and **Teeja Devi v State of Rajasthan⁴**, I am of the considered view that this is not a fit case to quash the proceedings at this stage.

7 The learned counsel for the petitioners submitted that the Station House Officer, Pahadi Shariff Police Station, Rachakonda may be directed not to arrest the petitioner pending investigation in the crime.

8 Taking into consideration the nature of allegations made in the complaint and in view of the principle enunciated by the Hon'ble apex

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

Court in **Arnesh Kumar v State of Bihar**⁵, the Station House Officer, Pahadi Shariff Police Station, Rachakonda is hereby directed to follow the procedure as contemplated under Section 41 A of Cr.P.C., in Cr.No.74 of 2017 so far as the petitioner/accused is concerned.

9 With the above observations and direction, this Writ Petition is disposed of. As a sequel, miscellaneous petitions, pending if any in this Writ Petition, shall stand closed.

T. SUNIL CHOWDARY, J

Date: 8th June, 2017
Kvsn



⁵ 2014(8) SCALE 250