

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.5371 OF 2017

ORDER:

Heard learned counsel for the petitioner/A1 and also the learned public prosecutor, representing the 1st respondent - State and the learned counsel for the 2nd respondent – defacto complainant and perused the grounds urged in the quash petition and the PRC proceedings from the police final report, based on the crime, that was taken cognizance by the learned Magistrate in allotting PRC number to commit the case to the Court of Sessions under Section 3(1)(x) of SC/ST Prevention of Atrocities Act, 1989.

2. Leave about other contentions of the 2nd respondent – defacto complainant is not an SC, for which there is no cogent proof, much less, to rely on the certificate at page No.65, issued by the Principal of Guntur Medical College, that is a matter to be decided in trial on to the credibility of the said certificate and evidentiary value. There is a certificate under 1993 Act caste certificate issued by the competent authority, the certified copy filed showing the petitioner belongs to Scheduled Tribe, vide certificate SSID.No.0581810080195501, dated 30.08.2003. Suffice to say, the provisions of the Act has no application to him. Hence, the proceedings against petitioner – A1 are quashed by allowing application. It is needless to observe that if at all

during trial, the petitioner is shown not an ST and that certified copy of the competent authority issued is not correct or the certificate produced before the Court is a fake one, liberty is there to the petitioner to approach the trial court to take recognizance against him under Section 319 Cr.P.C., which power of the trial Judge is always available including from the Constitution Bench of ***Dharampal Vs. State of Haryana***¹.

3. Accordingly and with the above observations, this criminal petition is disposed of. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence.

29.08.2017
SS

DR.B.SIVA SANKARA RAO,J

¹ (2014) 3 SCC 306