

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.6979 OF 2017

ORDER:

Heard learned counsel for the petitioners/ A3 and A4 of Crime No.6 of 2017 of Aswapuram Police Station, Bhadravathi District and learned Public Prosecutor for the State, before ordering notice to the 2nd respondent, which is registered on the report of the 2nd respondent for the offences punishable under Sections 323, 417, 420, 313, 506 r/w 34 I.P.C. and Sections 3(1)(r)(w)(i) and 3(ii)(v)(b)(a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act').

Though it is the contention from the grounds of the quash petition and also with reference to the F.I.R. that the entire case is falsely engineered with unexplained delay and none of the offences are attracted and so far as the other offences are concerned, all are punishable upto seven years or below as the case may be, but for, the offence under Section 313 I.P.C.

Coming to the alleged offence under Section 313 I.P.C., the very report speaks that all the three accused i.e, A1, A3, A4 through one J.Jyothi over phone secured abortion tablets and administered *de facto* complainant by force and on the next day she was aborted and on next day, the said J.Jyothi telephoned to the *de facto* complainant and abused and demeaned her saying she

belongs to Madiga community and how A1 could marry her. It is further averred that A1 and petitioners/ A3 and A4 beat *de facto* complainant not to disclose the same and on 29.10.2016 they also threatened her and she left Hyderabad on 30.10.2016 to Aswapuram and explained all these facts to her parents and prepared to commit suicide. However, her parents prevented her and they questioned the parents of A1 and asked to marry the *de facto* complainant by A1 and they abused saying the *de facto* complainant belongs to Scheduled Caste and the accused not chosen to marry, demeaned and insulted. Hence, to take action.

The report was given on 17.01.2017. Leave about the other aspects so far as the alleged abortion concerned, it is not even an averment that the tablets administered with some deception and she could not gaze in consuming, but for, forcibly administered and on the next day there was abortion on 29.10.2016 itself. Had it been and on saying on 30.10.2016 she came down to Aswapuram from Hyderabad and informed the same to her parents could it be believed that even after her parents approached the parents of A1, they refused to marry the *de facto* complainant by A1 waited till 17.01.2017 to believe the so called abortion in the hands of the petitioners/ A3 and A4, A1 and said Jyothi, if at all as alleged.

Having regard to the above, it is hardly believable of the alleged accusation on its face from the reading of F.I.R allegations,

though same is punishable above seven years, thereby the Criminal Petition is disposed of, unless the investigation discloses to sustain any accusation for the offence under Section 313 I.P.C. also, the police strictly follow Section 41-A Cr.P.C. and the guidelines of the Apex Court as laid down in Arnesh Kumar v. State of Bihar¹.

Miscellaneous petitions pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 09-08-2017

pab



¹ (2014 (2) ALT (CrI.) 457 SC)