

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.6412 of 2017

ORDER:

Petitioners are accused 8 to 11 in Crime No. 72 of 2017 dated 12.4.2017 of Dammapeta Police Station, Bhadradi Kothagudem District. The Criminal Petition is filed seeking to quash the proceedings pending against them, which are outcome of the report of the second respondent/defacto complainant. The report speaks that she has been residing since their ancestors' time for the past sixty years at Dammapeta by doing coolie work. On 12.4.2017, it is more than one day prior to the report dated 12.4.2017 at about 5.00 PM, the accused persons eleven in number came to their house to attack in the absence of her husband and they were removing the fence and when she tried to resist them they abused her in the name of caste and beat her and her mother-in-law and father-in-law and threatened them to vacate the house property else to see their end, hence to take action. The offences are punishable under Sections 294-B, 324, 506 r/w 34 , 109 IPC and Section 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. This Court granted stay of all further proceedings in Crime No. 72 of 2017 of Dammapet Police Station against petitioners/accused 8 to 11 by an interim order dated 11.8.2017, which reads thus:

“ Heard.

Basically even Section 3(1)(R) or (S) of the Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989 (for short, “the Act”), mentioned in the remand report not applicable to the case on hand but for from the IPC offences covered by the amended Act Schedule to attract Section 3(2) (va) of the Act, against the main accused 1 to 7, however coming to the petitioners who are A8 to A11, their names are not there in the FIR. What all it speaks is they belong to OC and BC caste and whose instigation, the accused committed but for that stray sentence, there is no whisper about any abetment or instigation by the petitioners as

A8 to A11 of the other accused. Hence, there shall be stay of arrest so far as the petitioners-A8 to A11 are concerned, for a period of 4 (four) weeks.”

3. The averments in the quash petition show that the petitioners are falsely roped, none of the offences attract against them and there is no explanation for the delay in reporting the occurrence and even there are no specific overt acts urged against any of the petitioners and there is no public view to attract the offences under Section 3(1) (R) or (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. It is further averred that Mahadeva Naga Chary also found as A8 in FIR and there is no such person in the entire Village from the certificate issued by the Panchayat summary and it shows the false reporting of the occurrence without even the presence of any persons by presumptions and thereby proceedings are liable to be quashed but nothing to abuse of process but also from the guidelines given by the Apex Court in **Rajiv Thapar & Others Vs. Madan Lal Kapoor**.¹

4. The de-facto complainant did not turn up.

5. Heard learned counsel appearing for petitioners and the learned Public Prosecutor representing the State.

6. On perusal of the report but for naming there are no specific overt acts against any of the petitioners. Having regard to the above, though it is a matter for the police to investigate to await for the final report and there is nothing to interdict the investigation, as the interim order for the offence punishable under Section 3(1))R) or (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, if no allegations at all for no public view but for Section 3(2) (va) of the Act, as observed in the interim direction

¹ 2013 (3) SCC 330

order, pending investigation, there shall be stay of arrest of the petitioners and investigation shall go on. Police may secure the presence of any of the petitioners in the event of necessity for the purpose of investigation. As a sequel thereto, miscellaneous petitions, pending if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 04.10.2017
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