

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.2437 OF 2017

ORDER:

The present petition is filed under Section 482 of the Criminal Procedure Code, 1973 (for short, 'the Code') requesting to quash the First Information Report in Crime No.68 of 2017 of III-Town P.S., Karimnagar, Karimnagar District.

2. The petitioners are arraigned as accused Nos.1 & 2 in the aforesaid crime. They alleged to have committed the offences punishable under Sections 3 (1) (p) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

3. Heard Sri P. Giri Krishna, the learned counsel for the petitioners, and the learned Additional Public Prosecutor for the State of Telangana.

4. The learned counsel for the petitioners would submit that when the face value of the complaint allegations are looked at, no allegations even to remotely connect the petitioners in commission of the offences alleged against them would find place. The learned counsel for the petitioners would submit that the 2nd petitioner is concerned he is the counsel on record for the 1st petitioner in O.S. No.302 of 2007 on the file of Principal Junior Civil Judge at Karimnagar. The said suit was filed by the 1st petitioner against (1) Noone Narsaiah (2) Noone Lingaiah and (3) Noone Lachaiah,

arraying them as defendants 1 to 3 respectively, for the relief of declaration of title and possession over an extent of six guntas comprised in Sy.Nos.848, 849, 850, 851, 852 and 853 situated at Choppadandi Village and Mandal of Karimnagar District, and for consequential relief of perpetual injunction.

5. While the suit was pending, the 1st petitioner herein moved an application in I.A. No.1011 of 2016 under Order 1 Rule 10 of C.P.C. to implead (1) Thallapally Kanukaiah (2) Kotha Ganga Reddy (3) Thallapally Karunakar (4) Noone Chandraiah (5) Lanka Shekar (6) Gujja Mani as defendants 4 to 9 in the said suit.

6. The 2nd respondent herein, who is the *de facto* complainant, is, thus, sought to be impleaded as defendant No.8 in the said suit. In that context, the *de facto* complainant, feeling insulted, filed a complaint. The complaint contents would run thus:

“In respect of the above subject, I, Lanka Sekhar, S/o. Pochaiah, R/o. 3-7-83, Vavilalapalli. Since 5 years in the court, there was no whisper about the caste. However, with a grudge on me, Kallem Komurella Reddy, R/o.Choppadandi and Gulabila Malla Reddy, both the persons with a mala fide intention knowing about me have insulted me as “Dalithudu” through court notice and thereby they have infringed my rights and created mental agony to me. Hence, an SC & ST case may be registered against them as they created mental agony to me. I came to know about the said subject on 25.2.2017 through my advocate. Hence, legal action may be taken against them.”

7. In fact, the complaint was lodged mentioning the contents in vernacular language (Telugu). So, what all to be found is that because of the impleadment petition filed by the 1st petitioner herein and implead petition notice was served on him, the *de facto* complainant got aggrieved feeling that he has been insulted as the

petitioners with *mala fide* intention noting him as 'Dalitdu', insulted him through the said notice and thus, infringed his rights and created mental agony to him.

8. Now, the question is, whether the provisions of Section 3 (1) (p) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 would attract and makes out *prima facie* allegations as to what has been intended by the *de facto* complainant in the direction of commission of offences by the petitioners as alleged.

9. Though, the learned Additional Public Prosecutor resisted the request, but, however, no satisfactory submission has been made in the direction of showing that the complaint allegations would make out a *prima facie* case of commission of the offence alleged under the Special Act.

10. A perusal of the affidavit sworn in by the 1st petitioner herein in I.A. No.1011 of 2016 would show that he has purchased the suit land and got mutation registered in his name in the revenue record, the title deed and pattadar pass books were issued in his favour; the respondents 1 to 3 (defendants 1 to 3) have illegally interfered with his peaceful possession and enjoyment; he filed the suit and to restrain the defendants from interfering with his peaceful possession and enjoyment of the suit land; the respondents and their mother have illegally executed sale deed in favour of the afore said six persons amongst whom the *de facto* complainant is one. It is stated in the implead petition that execution of sale deed in favour of the *de facto*

complainant and five others would reflect the intention of the respondents 1 to 3 therein that having no possession and enjoyment over the suit land, illegally going on transferring the suit property to the different persons, and, therefore, all the six persons named therein have been added as defendants 4 to 9 and if they are not impleaded as defendants 4 to 9 the 1st petitioner will be deprived of his right.

11. The service of notice on the *de facto* complainant as ordered by the Court in the impleadment petition, even if offended the *de facto* complainant, but, certainly, would not and does not constitute any of the offences under the Special Act, as alleged by the *de facto* complainant that the petitioners alleged to have committed, and, therefore, investigation into crime would amount to abuse of the process of law, and the case in hand demands exercise of power under Section 482 of the Code, and accordingly exercising the power, the present First Information Report in Crime No.68 of 2017 of III-Town P.S., Karimnagar is quashed.

12. The Criminal Petition is accordingly allowed.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition stand closed.

A. SHANKAR NARAYANA, J

Dt. 03.04.2017
gbs