

THE HON'BLE SRI JUSTICE P. KESHA VA RAO

CRIMINAL PETITION No.9079 of 2011

ORDER:

Heard the learned counsel for the petitioner as well as the learned Public Prosecutor.

2. The petitioner being the sole accused filed the present criminal petition to quash the proceedings initiated against him in Crime No.73 of 2011 of Koutala Police Station, Adilabad District, registered for the offence under Section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. The gravaman of the charge levelled against the petitioner herein is that on 16-09-2011, at about 4:30 P.M., he collected bricks for construction of Komuram Bheem Complex near Komuram Bheem Junction in Koutala Mandal. A person by name M.L. Maraiah of the village, who is working as a Teacher belongs to BC Caste, resides nearby Komuram Bheem Complex. The shops of M.L. Maraiah is situated nearby Komuram Bheem Complex. He leased out the said shops with an intention to stop the construction that is being made by the second respondent herein. In that connection, when the second respondent went to the spot, while taking the photograph, it is alleged that he was abused and insulted in the name of his community by the petitioner by using abusive language as '*koya lanjakodukulu*' and he questioned their action in the presence of the people who gathered there. The second respondent also stated that, while accusations are being made, one Nayeem, Mark Tirupati Goud, Morla Sommestry and Lambeji Jayaram were also present. Therefore, he lodged a complaint

on 17-09-2011 before the Koutala Police Station. In pursuance of the said complaint, a Crime was registered vide Crime No.73 of 2011 for the offence under Section 3 (1) (x) of the SCs & STs (POA) of Atrocities Act against the petitioner herein. Questioning the same, the present Criminal Petition is filed.

4. The basic contention urged by the petitioner is that he was falsely implicated in the offence and on 16-09-2011 at 1:00 P.M., the petitioner left the village along with his brother, reached Kagaznagar on motor bike and boarded Telangana Express Train at 3:30 P.M., and reached Secunderabad on 16-09-2011 at 11:00 A.M., which is at a distance of 290 KMs and joined his family members, who are already there. In that context, he also stated that to evidence his return to Koutala with his family on 18-09-2011, the IRCTC-e-ticket print out was produced. On perusing the said material, this Court is of the opinion that it cannot go into the disputed questions of fact as to whether the petitioner was present in the village on 16-09-2011 or left to Secunderabad for attending the family function, more particularly when the crime is under investigation.

5. It is well established principle that inherent power conferred on the High Court under [Section 482](#), Cr. P.C., has to be exercised sparingly with circumspection and in rare cases and that too to correct patent illegalities or when some miscarriage of justice is done. The content and scope of power under [Section 482](#) Cr. P.C., were examined in considerable detail in [Madhu Limaye v. State of Maharashtra](#) and it was held as under:

“The following principles may be stated in relation to the exercise of the inherent power of the High Court:

(1) That the power is not to be resorted to if there is a specific provision in [the Code](#) for the redress of the grievance of the aggrieved party;

(2) That it should be exercised very sparingly to prevent abuse of process of any Court or otherwise to secure the ends of justice;

(3) That it should not be exercised as against the express bar of law engrafted in any other provision [of the Code](#).”

6. More so, the case is at the investigation stage. Further, the allegation made by the petitioner that he was not in the village on 16-09-2011 also can be investigated. Petitioner is at liberty to file the entire material before the Investigating Officer to disprove the allegation made by the second respondent against him. Therefore, there are no merits in the criminal petition.

7. In the result, the Criminal Petition is dismissed leaving open to the petitioner to take other remedies available to him as per law. During the course of the investigation, if the presence of the petitioner is required, the Investigating Officer is directed to invoke the provisions of Section 41-A Cr.P.C., as per law.

8. As a consequence, miscellaneous petitions pending consideration, if any, in this Criminal Petition, shall stand closed.

JUSTICE P. KESHA RAO

Date: 24.10.2017

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