

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL PETITION No.9882 of 2011

ORDER:

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

The present criminal petition is filed by the petitioners, who are the accused in Crime No.60 of 2011, to quash the proceedings initiated against them for the offences under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "the Act") as well as Section 506 IPC.

A perusal of the criminal petition and the material enclosed thereto would reveal that the 2nd respondent herein filed a complaint on 19.08.2011 before the Sub-Inspector of Police, Peddakadabur Police Station stating that he is a native of Chinnathumbalam Village, Peddakadabur Mandal, Kurnool District, and living by doing daily coolie work. The local politicians i.e., the petitioners herein, who are doing illegal business in liquor, threatened the 2nd respondent not to enter into the village. Due to the said fear, the 2nd respondent left the village and went to Bombay to eek out his livelihood. However, on 18.07.2011, when the 2nd respondent came to his village to meet his family members more particularly his mother, who is suffering with hypertension, fever etc., the petitioners came to his house and threatened him with dire consequences and forced him to leave the village by saying "A

Madiga Kodaka ninnu cheppulatho kodathamu” and thus abused him with his caste name and further told him that if he fails to leave the village, he has to face criminal cases. In those circumstances, the 2nd respondent requested the petitioners not to force him to leave the village because his mother was not feeling well. Whereupon the petitioners appear to have stated that “*A Madiga Tahaynna neevu vooruku vaste nee anthu choostam*”. Immediately, the 2nd respondent went to the police station and lodged a complaint stating that his life is in danger and requested to take action against the concerned persons. In pursuance of the said complaint, a crime was registered vide F.I.R.No.60 of 2011 for the offence under Section 3(1)(x) of the Act and Section 506 IPC on 19.09.2011 against the petitioners. Assailing the said registration of crime, the present criminal petition is filed by the petitioners, who are accused Nos.1 to 4 in the said FIR.

The petitioners in the present petition have stated that they are falsely implicated in the above said crime by the 2nd respondent. The 2nd respondent was selling arrack and committing thefts in the village and is in the habit of lodging false complaints for extortion of money. In fact, on an earlier occasion, the 2nd respondent made a complaint against the then Sub-Inspector of Police and the same ended in compromise on payment of money. The 2nd respondent, taking advantage of his caste and the special enactment, 1989, is filing false complaints against the persons and

getting the matters compromised on payment of money. In fact, the local politicians also instigated him to file complaints against the persons whom they are inimically disposed of. The petitioners categorically denied the fact of abusing the 2nd respondent and that the alleged incident never took place and they were falsely implicated in the above case. The petitioners have also stated that they have alleged to have abused the 2nd respondent and threatened him on 18.07.2011, but the complaint is lodged on 19.08.2011 with a delay of one month. Further, they have also stated that mere abuse and calling a person in the name of his caste does not attract the provisions of Section 3(1)(x) of the Act apart from other aspects.

A perusal of the contents of the criminal petition as well as the complaint reveal that according to the 2nd respondent, the alleged incident of abusing him by taking his caste name by the petitioners and threatening him with dire consequences had taken place on 18.07.2011 when he was in his house, but the complaint was lodged on 19.08.2011 and this fact is undisputed by both the parties. The basic ingredients for an offence under Section 3(1)(x) of the Act is that there should be an intention of insult or intimidation by a person, who is not a member of scheduled caste or scheduled tribe and the said intention is to humiliate the member of scheduled caste or scheduled tribe. Apart from that the accused must have also the knowledge or awareness

that the victim belongs to scheduled caste or scheduled tribe and the incident must have occurred in any place within the public view. For the sake of convenience, Section 3(1)(x) of the Act reads as under:

“3(1)(x) – intentionally insults or intimates with intent to humiliate a member of a scheduled caste or a scheduled tribe in any place within public view.”

There is no dispute that an offence can be committed in any place whether it is a private or a public place, but the same should be within the public view. The requirement of public view can be satisfied even if the incident takes place in a private place where public are present. Therefore, the expression ‘public view’ under Section 3(1)(x) of the Act has to be interpreted to mean that the incident took place in the presence of public, who are not having any kind of close relationship or association with the complainant.

Admittedly, in the present case, the alleged incident of abusing the 2nd respondent by the petitioners in the name of his caste took place inside the house in the presence of his family members. Therefore, it can be safely held that in a case of this nature the ingredients constituting an offence under Section 3(1)(x) of the Act are not made out. Further, in the case on hand, coupled with the offence under Section 3(1)(x) of the Act, an offence under Section 506 IPC is also mentioned against the petitioners herein. Since, the petitioners are charged with the offences under Section 3(1)(x) of the Act and Section 506 IPC and merely because the

ingredients of Section 3(1)(x) of the Act are not made out in view of the interpretation given to the words “within public view”, it does not mean that the entire incident is false. The allegations in the report that the petitioners are alleged to have threatened the 2nd respondent with dire consequences if he fails to leave the village and have to face criminal cases, are the issues, which, need to be investigated. Therefore, it cannot be said that the allegations in the report are bereft of basic facts constituting an offence punishable under Section 506 IPC.

Learned counsel for the petitioners in support of his case cited a judgment of this Court reported in **P. Anand Rao and others v. State of A.P. and another**¹. A perusal of the said judgment also strengthens the case of the petitioners that abusing a person with caste name not within the public view will not attract the basic ingredient of Section 3(1)(x) of the Act.

Therefore, the criminal petition is allowed in part by quashing the investigation insofar as the offence punishable under Section 3(1)(x) of the Act is concerned. Insofar as the offence punishable under Section 506 IPC is concerned, the criminal petition is dismissed.

Miscellaneous petitions, if any, shall stand closed.

JUSTICE P. KESHA RAO

Date: 27.10.2017.
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¹ 2013 Law Suit (AP) 653