

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.9539 OF 2017

ORDER:

Even today, the learned public prosecutor said proper instructions could not be received.

2. So far as the offence under Section 66A of the Information Technology Act is concerned, the said provision itself is struck down by the expression of the Hon'ble Apex Court in *Shreya Singhal Vs. Union of India*¹, thus, the registration of the crime under that section is unsustainable.

3. Coming to the offence under Section 3(1)(r)&(s) of SC/ST POA Amended Act, 2015, it is the contention of the counsel for petitioners that from the very reading of the FIR, there is no public view to insult the victim by caste name. What are the Whatsapp messages stated and the photocopy of print of the same claimed retrieved is filed only shows the circulation and the authenticity of the matter is also not before the Court, it is a matter for investigation by the Investigation Officer.

4. Having regard to the above, even taken the same within public view to attract the provisions of the Act, once it is requiring investigation, there is nothing to interdict the investigation, but for to say, pending investigation petitioner

¹ (2015) 5 SCC 1

shall not be arrested, however, it will not prevent the police to secure the presence for purpose of investigation.

5. Accordingly and with the above observation, this criminal petition is disposed of. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence.

DR.B.SIVA SANKARA RAO, J

13.10.2017
SS

