

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL PETITION No.4301 of 2011

ORDER :

This Criminal Petition is filed by the petitioners/A.1 to A.3 under Section 482 Cr.P.C., seeking to quash F.I.R.No.81 of 2011 on the file of the N.T.P.C., Karimnagar, registered against them for the offences punishable under Section 3(i)(x) of the SCs and STs (POA) Act, 1989 and Section 420 IPC.

2. The case of the petitioners/A.1 to A.3 is that on 22.05.2011 the 2nd respondent – defacto-complainant lodged a complaint before the S.I. of Police, N.T.P.C., Karimnagar, stating that his wife was a subscriber of chit being run by M/s. Kapil Chit Funds (Private) Limited. She became the successful bidder of a chit, but she was not paid the prized amount by the petitioners. They had abused the defacto-complainant in most filthy language touching the name of his caste, when he demanded for reimbursement of the premium amount or the prized chit amount. Basing on his complaint, the police registered a case in F.I.R.No.81 of 2011 for the aforesaid offences. Aggrieved by the same, the petitioners have filed the present Criminal Petition seeking to quash the said FIR.

3. Heard Sri P. Vishnu Vardhan Reddy, learned counsel for the petitioners/A.1 to A.3 as well as Sri Papa Rao, learned

counsel for respondent No.2/defacto-complainant and the learned Public Prosecutor for the 1st respondent-State. Perused the material on record.

4. Learned counsel for the petitioners mainly contended that this is a chit fund transaction and the defacto-complainant is the husband of the subscriber of a chit being run by Kapil Chit Funds Limited. If the subscribers of the chit transaction are aggrieved by the payments and financial transactions with the company, they have to resort to the provisions available under the Chit Funds Act, 1982 (for brevity "the Act") to resolve the disputes. But, the 2nd respondent, who is the husband of the subscriber of a chit, has filed a false complaint against the petitioners, who are employees of Kapil Chit Funds Limited, making false allegations stating that they have scolded him in the name of caste, instead of settling the disputes with the company by resorting to the provisions of the Act.

5. On the other hand, learned counsel for respondent No.2 – defacto-complainant submitted that the petitioners have committed offence punishable under Section 420 IPC as they did not return the amount, though the wife of the defacto-complainant became the successful bidder. He would further contend that when respondent No.2 asked the petitioners to return the bid amount, the petitioners have scolded him in filthy language, touching the name of his caste and, as such,

they are liable for the offence punishable under Section 3(i)(x) of the SCs and STs (POA) Act, 1989.

6. At the outset, it is an admitted case of the parties that there is a chit transaction in respect of which a dispute arose regarding payment of the bid amount. The contention of the petitioners is that the petitioners are the employees of Kapil Chit Funds Limited, which is a company registered under the provisions of the Companies Act and if any dispute arises with regard to a chit transaction, the 2nd respondent has to settle the same by following the procedure prescribed under the Chit Funds Act, 1982, but he cannot resort to the criminal proceedings by filing a complaint under Section 420 IPC.

7. No doubt, there is some force in the argument advanced by the learned counsel for the petitioners. As the dispute between the parties arose with regard to a chit transaction, the respondent ought to have resorted to settle the dispute under the provisions of the Chit Funds Act, instead of resorting to the criminal prosecution against the petitioners. Moreover, the allegations in the complaint do not attract the provisions of Section 420 IPC. Therefore, prosecution of the petitioners under the said provision is liable to be quashed.

8. So far as the contention raised by the learned counsel for petitioners that the petitioners have not scolded the wife of

the defacto-complainant in the name of caste and that the present complaint lodged against them is a false one is concerned, the same cannot be a ground for quashing the proceedings against them. There are disputed questions of fact that arise in this criminal petition. While the petitioners contend that they have not scolded the wife of the defacto-complainant, the defacto-complainant had lodged the complaint stating that they have scolded them in the name of caste. If the allegations in the complaint are taken on their face value, it cannot be quashed with regard to the allegations that the accused scolded the wife of the defacto-complainant in their caste name. The allegations in the complaint are to be proved only during the course of trial. The truth or otherwise of the allegation that the petitioners have scolded the defacto-complainant would be determined only after investigation and after adducing evidence before the trial Court.

9. For the aforesaid reasons, this Criminal Petition is disposed of quashing the F.I.R.No.81 of 2011 registered against the petitioners/A.1 to A.3 for the offence punishable under Section 420 IPC only. So far as the proceedings initiated against the petitioners for the offence punishable under Section 3(i)(x) of the SCs and STs (POA) Act, 1989 is concerned, the police shall investigate the same by following procedure prescribed under Section 41-A of Cr.P.C., during investigation, in the light of the ratio laid down by the Hon'ble

Apex Court in ARNESH KUMAR v. STATE OF BIHAR AND ANOTHER¹. Interim stay granted by this Court on 31.05.2011 shall stand vacated.

10. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

GUDISEVA SHYAM PRASAD, J

27.10.2017
Msr



¹ 2014 (8) SCALE 250

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