

HONOURABLE SRI JUSTICE N. BALAYOGI

CRIMINAL PETITION No. 7813 of 2011

ORDER:

This criminal petition is filed under Section 482 of Cr.P.C to quash the proceedings in P.R.C.No.52 of 2010 on the file of Additional Junior Civil Judge, Chilakaluripet, Guntur District.

2. The contention of the petitioners is that the 2nd respondent only to harass them lodged a false complaint and that they have no acquaintance with the 2nd respondent and that when they questioned about non supply of water, the 2nd respondent created nuisance on 05.05.2010 and abused them in filthy language along with his relatives.

3. Learned counsel for the petitioners submitted that without proper appreciation of statement of witnesses, mechanically the Court below remanded the petitioners into judicial custody by taking cognizance for the offence punishable under Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short ' the SC & ST Act') also. It is also contended that the complaint as well as statement of witnesses do not make out *prima facie* case against the petitioners for the offences alleged against them.

4. On the other hand, learned counsel for the 2nd respondent contended that in the complaint itself there were specific overt acts abusing the 2nd respondent in the name of caste and also *prima facie* material is available for the offence with which they are charged.

5. Learned Additional Public Prosecutor contended that after investigation, police filed charge sheet for the offence punishable under Section 324 read with 34 of IPC deleting Section 3(i)(x) of the SC & ST Act. But the Court below having considered the material on record took the cognizance for the offence punishable under Section 3(i)(x) of the SC & ST Act also, which is not illegal.

6. A perusal of the record goes to suggest that after issuing the statement of the complainant which was recorded by HC 1232 of Chilakaluripeta Town Police Station, the Station House Officer, registered a case in Crime No.78 of 2010 for the offences punishable under Sections 324 and 34 of IPC and Section 3(i)(x) of the SC & ST Act.

7. A reading of the FIR goes to show that specific overt acts were attributed to the petitioners alleging that the petitioners abused the 2nd respondent in the name of caste in the words 'malanakodaka' and beat on cheek and that

the second son of the 1st petitioner/A1 beat him with stick on his hands and that the 1st son of the 1st petitioner beat him with 'rokalibanda/chatny banda' on his spine. After came to know the said incident, the 2nd respondent's sister-in-laws by name Sujatha and Sumalatha came there and the accused beat them also by holding their hair.

8. However, the statements of witnesses go to show that the complainant stated the same whatever he stated in his complaint. The other witnesses stated that they do not know the caste name of the 2nd respondent and his full name is Mastan and that every body used to call him as Mastan thinking that he belongs to muslim community and also stated that no body abused Mastan as 'Malanakodaka'. All the statements are in the same handwriting and one of steno typed and that all the witnesses stated that there is a quarrel with regard to the supply of water and when the 2nd respondent came to that area at 07.00 PM, they questioned about the water not being supplied and then there was some altercation and that the petitioners beat Mastan.

9. Learned counsel for the petitioners contended the doctor also opined in the wound certificate that there are no external injuries and the 2nd respondent complained severe pain all over the body. There is *prima facie*, material against the petitioners to prosecute them and nothing is

found to say that there is abuse of process of Court or miscarriage of justice. Further the police after thorough investigation, filed charge sheet. The truth or otherwise to the allegations will be proved during trial. Therefore, the criminal petition is liable to be dismissed.

10. Accordingly the criminal petition is dismissed while vacating the interim stay granted by this Court on 08.09.2011 in CrI.P.M.P.No.8288 of 2011.

Miscellaneous petitions pending consideration if any in the criminal petition shall stand closed in consequence.

26.10.2017
kvrn



JUSTICE N. BALAYOGI