

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Criminal Revision Case No.2730 of 2017

JUDGMENT:

Questioning the order dated 28.08.2017 in Criminal M.P. No.170 of 2016 in SC/ST. SC. No.32 of 2016 passed by the Special Judge for Trial of Offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989-cum-V-Additional Sessions Judge, Medak at Sangareddy, refusing to discharge the revision petitioners/accused Nos.1 to 3 in the aforesaid Sessions Case for the offence punishable under Section 3 (1) (x) of SCs & STs (PoA) Act (for short, 'the Act'), the present Criminal Revision Case is filed.

2. Heard Sri P. Nagendra Reddy, learned counsel for the revision petitioners and the learned Additional Public Prosecutor for the State of Telangana.

3. The main submission of the learned counsel for the petitioners is that as could be seen from the complaint as well as the statements of witnesses recorded under Section 161 of Cr.P.C., including the *de facto* complainant/alleged victim, the allegation that 'insult' did not occur within the public view, and, therefore no offence is made out as the ingredients under Section 3 (1) (x) of the Act are not attracted, which the learned Judge failed to notice.

4. Learned counsel also would submit that when the petitioners filed Criminal Petition No.2733 of 2016 to quash the proceedings on the very same ground, this Court gave liberty to file discharge application, further directing the trial Court to consider and dispose of the same in accordance with law. But the Trial Court, without substantiating any reason, and basing on the presumption, dismissed the discharge petition. He would, therefore, submit that there are no grounds to frame the charge under Section 3 (1) (x) of Act, and, sought to set aside the order and discharge the petitioners.

5. Learned Additional Public Prosecutor for the State of Telangana would contend that the statements recorded by the investigating officer under Section 161 of Cr.P.C. would indicate that what is contended by the petitioners is wrong and even, whether the insult did occur within the public view or not is the question, which ought to be decided only after a full-fledged trial, and, therefore, sought to dismiss the Revision Case.

6. Perused the order passed by the learned Additional Sessions Judge. It is no doubt true, when the Criminal Petition No.2733 of 2016 was filed at the inceptive stage, this Court granted interim stay in so far as the offence under Section 3 (1) (x) of the Act in P.R.C. No.19 of 2015 on the file of Additional Judicial Magistrate of First Class, Sangareddy, Medak District, for a period of four weeks and the said Criminal Petition was finally disposed of on 30.03.2016 giving liberty, as submitted by the learned counsel for the petitioners.

7. Perused the complaint and the statements of witnesses, recorded under Section 161 of Cr.P.C. It is clear from the statement of the *de facto* complainant, even at this stage clearly reveal that the insult was not on one occasion, but, on several occasions. For instance, one allegation made in the statement would *suffice* to examine whether there is any *prima facie* case and the insult did occur within the public view or not.

8. The statement would show that there was constant taunting by not only the husband but also by the in-laws consistently on the same ground that they belong to upper caste, whereas the *de facto* complainant belong to Scheduled Caste and, admittedly, their marriage took place on account of love affair. Thus, at every stage of domestic life, there appears to be belittling of the *de facto* complainant by taking the name of her caste. The example which makes it explicit is, while demanding her to get Rs.5.0 lakhs from her parents on the ground that the funds were inadequate to pay the consideration for purchasing a flat and even her Card was taken and drawn Rs.50,000/- for House Warming Ceremony, but he did not take her by stating that their prestige will be lowered if she is taken to the house warming ceremony in their circle as family members would comment that she belongs to 'Mala' caste. Thus, there are numerous allegations in Section 161 Cr.P.C., which all require a thorough analysis that can be done only after a full-fledged trial takes place. It is really premature

to hold that the insult did not occur within the public view and discharge the petitioners herein.

9. Therefore, there is no merit in the present Criminal Revision Case and, accordingly, the same is dismissed as there is no infirmity in the order passed by the learned Additional Sessions Judge.

As a sequel thereto, miscellaneous petitions, if any, pending in the Criminal Revision Case shall stand closed.

Dt. 27.11.2017
gbs

A. SHANKAR NARAYANA

