

**HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**CRIMINAL PETITION NO.11099 OF 2017**

**ORDER:**

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in Crime No.106 of 2017 of Pithapuram Rural Police Station, East Godavari District, registered for the offences punishable under Sections 324, 323, 506 r/w Section 149 Indian Penal Code (for short "I.P.C.") and Sections 3 (i) (r) (s) of SCs and STs (POA) Amended Act, 2015 (1 of 2016) based on the complaint lodged by the 2<sup>nd</sup> respondent, insofar as the petitioners/ accused Nos.9, 10, 14 and 15 are concerned.

2) It is the case of the prosecution that on 08.09.2017 at about 6.30 am, the 2<sup>nd</sup> respondent and some of SC colony members gathered at the Ambhedkar Statue, Chakrapani Nagar, Bhogapuram Village of Pithapuram Mandal, for attending daily routine coolie work. At that time, the accused Nos.1 to 8, who belong to Kapu Community, with some others of the same village, came there and abused the complainant and others in filthy language and raised their caste name uttering as "Mala Lanjakodakalara, Dammunte Randira, Narikesi Potam" and beat the complainant and others with sticks and iron rods, and caused bleeding injuries due to previous disputes. The 2<sup>nd</sup> respondent and accused tried to settle the issue before the elders but nothing fruitful. Therefore, the police registered the crime against the petitioners including other accused Nos.1 to 8, who are petitioners in CrI.P. No.9233 of 2017, and accused Nos.11 to 13 were arrested by the police even without following the procedure under Section 41-A Cr.P.C. But accused Nos.11 and 13 were released on bail and accused No.13 is still in judicial remand.

3) The main contention before this Court is that these petitioners were not named in the report lodged by the 2<sup>nd</sup> respondent or the statements recorded by the police and in the absence of disclosing the names in the FIR, the petitioners cannot be proceeded for the offences supra and the Investigating Agency is not entitled to arrest the petitioners in connection with the above crime.

4) It is also contended that the incident alleged to have taken place during Vinakaya Chavithi procession on 15.09.2017, but in fact, no such incident took place. The police have failed in their attempt in arrest of the accused Nos.1 to 8 and these petitioners were impleaded subsequently after obtaining orders in Crl.P. No.9233 of 2017 dated 02.09.2017 and thereby, the proceedings against the petitioners is sheer abuse of process of Court and prayed to quash the proceedings against the petitioners.

5) Learned counsel for the petitioners drawn the attention of this Court to the order passed by this Court in Crl.P. No.9233 of 2017 dated 02.09.2017 and requested this court to pass same order in respect of these petitioners also, besides raising some other grounds that these petitioners were not named in the report lodged by the 2<sup>nd</sup> respondent but the police picked up these petitioners subsequent to passing of the order in Crl.P. No.9233 of 2017 dated 02.09.2017. Undoubtedly, the names of the some petitioners were not mentioned in the report lodged by 2<sup>nd</sup> respondent but the allegations made thereunder is that on 08.09.2017 at about 6.00 am when the complainant sat at Ambedhkar Statute of Chakrapani Nagar, one Tati Yesubabu, Murra Rajubabu, Murra Sreenu, Murra Kannarao, Pitta Nageswararao were present. At about 6.30 am, some people belonging to Kapu Caste viz., Yallapu Paparao, Devireddy Bhadram and his two

sons, Palingi Doctor, Chilakacharla Satish and others under the supervision of Katta Nukaraju came there and asked Murra Ravi that why they quarreled with them and one Chilakacharla Satish and his father Chilakacharla Peddakapu uttered bad words and one by name Satish beat them. Then people gathered from around and said that they won't let live any one in Maalapeta and Pothula Trimurthulu and Katta Nagaraju uttered the words 'DAMMUNTE RANDI RA NARIKI POTAM'.

6) Even as seen from the contents of the report lodged before the police, the names of these petitioners viz., Devireddi Bhadram, Allu Veerababu, Bondada Venkata Ramana and Chintala Satish were not mentioned but the allegations clearly shows the persons named therein were present along with others which may include the petitioners. Therefore, at this stage, it is difficult to quash the proceedings against the petitioners on the ground that their names were not shown in the report lodged by 2<sup>nd</sup> respondent and that too, the FIR is only an information to the police about the commission of cognizable offence and to set the criminal law into motion and the information need not contain all minute details since it is not encyclopedia of facts. Therefore, basing on the contention that these petitioners were not named in the report lodged by the 2<sup>nd</sup> respondent, the proceedings cannot be quashed.

7) Therefore, the contention raised by the learned counsel for petitioners that the 2<sup>nd</sup> respondent lodged the complaint before the police is an abuse of process of law cannot be accepted. As seen from the allegations made in the complaint, the accused Nos.1 to 8 along with others, who belongs to Kapu Community allegedly abused by raising the caste name of complainant, who belongs to scheduled caste

and beat them with stones etc., while proclaiming that they will not let them live in SC colony, Malapeta. Such allegations, if taken on its face value, would constitute prima facie offence. In such a case, this Court cannot quash the proceedings when the allegations in the FIR prima facie disclose commission of offence punishable under Section SC/ST (POA) Act.

8) Learned counsel for petitioners requested this Court to dispose of this petition, as per the orders of this Court in Crl.P. No.9233 of 2017, wherein this Court directed the police not to arrest the accused Nos.1 to 8 pending investigation while permitting them to investigate into the crime.

9) In view of the judgment of the Apex Court in **State of Telangana vs Habib Abdullah Jeelani & others**<sup>1</sup> wherein it directed not to pass an order directing the police not to arrest while finding that there are no grounds to quash the proceedings. The law declared by the Apex Court in various judgments and finally concluded that such orders cannot be passed by the Court while exercising jurisdiction under Section 482 Cr.P.C, directing the police not to arrest the accused as it amounts to grant of pre-arrest bail under Section 438 Cr.P.C exercising the power under Section 482 Cr.P.C. If pre-arrest bail is granted, the accused are being insisted for furnishing security with sureties or without sureties but in case of granting an order not to arrest, the Courts are not even insisting for security or any sureties for the appearance of the accused before the Court. If for any reason when the accused jumps, it is difficult to secure his presence when such order is passed. Therefore, I am not inclined to pass the order directing the police not to arrest the petitioners pending investigation.

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<sup>1</sup> 2017 (2) SCC 779

10) Coming to the case on hand, the offence allegedly committed is punishable with less than seven years of maximum imprisonment. Therefore, the Investigating Agency is directed to follow the procedure laid down under Section 41-A of Cr.P.C and guidelines formulated by the Apex Court in ***Arnesh Kumar v. State of Bihar and another***<sup>2</sup>.

11) With the above direction, the Criminal Petition is disposed of at the stage of admission.

Consequently, miscellaneous petitions pending, if any, shall also stand closed.

Dt.20.11.2017  
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**JUSTICE M. SATYANARAYANA MURTHY**



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<sup>2</sup> (2014) 8 SCC 273

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**CRIMINAL PETITION NO.11105 OF 2017**



Date:20.11.2017

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