

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**CRIMINAL PETITION No.11477 of 2017****ORDER:**

This Criminal Petition under Section 482 Cr.P.C. is filed to quash the proceedings in Crime No.804 of 2017 on the file of Hayathnagar Police Station, Cyberabad District, registered for the offences punishable under Sections 3 (1) (iv) (x) of SCs and STs (POA) Act, 1989 and 506 IPC registered basing on the report lodged by the respondent No.2/*de facto* complainant making serious allegations that the petitioners/accused insulted respondent No.2, raising her caste name and thereby insulted within the public view and the report also disclosed that at that time of the incident, some other persons were present along with the petitioners and therefore, on the strength of the complaint, the police lodged a report and issued FIR.

In the present petition the challenge before this Court is that the petitioners are unaware of the caste of the *de facto* complainant and in the absence of knowledge about the caste of complainant, the proceedings cannot be continued and placed reliance on two judgments of the Delhi High Court, which are as follows:

- 1) *Deepa Bajwa v State and Others 2004(77) DRJ 725.*
- 2) *Asha Aggarwal v State (Crl.M.C.No.2757/ 200, which is decided on 27.03.2014).*

Placing reliance on the above said judgments, learned counsel for the petitioners contended that in the absence of any allegation in the FIR about knowledge of petitioner with regard to the caste of complainant, the proceedings cannot be continued and requested to quash the proceedings against the petitioners.

Learned Public Prosecutor for the State of Telangana would draw the attention of this Court to the statement of the *de facto complainant* recorded by the police under Section 161 Cr.P.C. during investigation while referring Clause © of Section 8 of SCs and STs (POA) Act as amended by Act 1 of 2016 with effect from 26.01.2016.

A bare look at the contents in the complaint lodged with the police by the complainant, the petitioner allegedly abused the complainant in her caste name in most unparliamentarily language in the presence of other persons and if the allegations made in the report lodged with the police are accepted, it would constitute an offence. But, it is not the case of the learned counsel for the petitioners that those allegations would not attract the offences, but in the absence of knowledge about the caste of the complainant, the proceedings are liable to be quashed placing reliance on the judgments referred supra.

However, the proceedings are at the stage of commencement of the investigation, of course, the statement of the *de facto* complainant was recorded by the police during investigation under Section 161 Cr.P.C. Now, the question is in the absence of allegation as to the knowledge about the caste of the complainant, whether proceedings can be quashed. FIR is only an information to the police about the commission of cognizable offence by any person, to set the criminal law into motion and it need not contain all minute details such as knowledge of the caste of the complainant to the petitioners etc., Therefore, in the absence of specific allegation that the petitioners are aware of the caste of the complainant, the proceedings cannot be quashed. Added to it, the judgments relied on by the learned counsel for petitioners are not applicable to the present facts of the case and apart from that, they are not binding on this Court, of course, they are

having persuasive value. Moreover, as per Section 8 © of SCs and STs (POA) Act substituted by Act No.1 of 2016 with effect from 26.01.2016, in a prosecution for an offence under this chapter, if it is proved that the accused rendered any financial assistance in relation to the offences committed by a person accused of or reasonably suspected of committing, the Special Court shall presume, unless the contrary is proved, that such person had abetted the offence. Thus, statutory presumption under Section 8 (c) of SCs and STs (POA) Act is in favour of the prosecution and it is a rebuttable presumption. The question of rebutting the presumption or dispel the presumption would arise only during the course of trial. Therefore, the proceedings cannot be quashed, at this stage, on the basis of the law declared by the Delhi Court in the referred judgments as they are not applicable to the provisions of the Act subsequent to amendment as Clause © was incorporated by Act 1 of 2016 with effect from 26.01.2016. Hence, I find no grounds to quash the proceedings at this stage. Hence, it is not a fit case to quash the proceedings at this stage. Consequently, the present Petition is liable to be dismissed as it lacks merit.

Accordingly, this Criminal Petition is dismissed.

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

M. SATYANARAYANA MURTHY, J

Date: 07.12.2017
eha

HONOURABLE SRI JUSTICE M. SATYANARAYANA MURTHY



CrI.P. No.11477 of 2017

Dt. 07.12.2017

eha