

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.12431 of 2017

ORDER

This petition under Section 482 of Cr.P.C., is filed to quash the proceedings in Cr.No.68 of 2017 of Saravakota Police Station, Srikakulam District, registered for the offences punishable under Sections 448, 353, 506 and 341 of IPC, against the petitioner/accused, based on the complaint lodged by the 2nd respondent-Deputy Director, ITDA, Seethampet, before the Inspector of Police, Saravakota Police Station, Srikakulam District.

2. The petitioner, who is a Tribal Society Leader of Saravakota Village and Mandal, Srikakulam District, is fighting for the rights of the tribal people, as a part of agitation, he went to the tribal school i.e., Ashrama Girijana School, Saravakota, and sent the children to their houses.

3. It is alleged in the complaint that on 26.10.2017 at about 2.00 PM., the Deputy Director, ITDA, went to the Tribal School at Saravakota Village and on verification of the attendance register, he found the students were absent in the school on account of agitation taken up by the petitioner on the ground that none of the teachers working in the tribal school belongs to tribal. Thus, the school children were deprived of their education on that day and that he allegedly obstructed the teachers from discharging their duties and therefore, requested the Inspector of Police to register a case against the petitioner. Accordingly, the police registered the aforesaid crime for the offences referred supra and issued FIR.

4. The present petition is filed on the ground that the petitioner being a leader of Tribal Society of Saravakota Village and Mandal, Srikakulam District, is fighting for the rights of the tribal children and as a part of agitation for not appointing any tribal teacher in the tribal school, he went to the school and requested the children to go to their houses and such act would not attract the offences alleged, since the petitioner being a schedule tribe, fighting for the rights of the tribals and therefore, initiation of criminal proceedings against this petitioner for various offences, referred supra, is nothing but an abuse of process of the Court and prayed to quash the proceedings.

5. As seen from the material on record, including the allegations made in the report and the news item published in Sakshi daily produced before this Court, it is evident that the petitioner is agitating for the rights of the tribal people as no tribal teacher was appointed in the tribal school at Saravakota Village and therefore, demanded for appointment of tribal teacher in the said school and sent the students to their houses as a protest. Making protest peacefully is not prohibited and it is a right of any association. But the duty of the teachers is to impart education to the children and sending the children to their houses during school times, is nothing but depriving them to their right to education, which is recognized as fundamental right under Article 21-A of the Constitution of India, and obstructing the teachers from discharging their duties to impart education to the children would attract the offence punishable under Section 353 IPC.

6. One of the contentions of the counsel for petitioner is that either the tribal children or the teachers in the school complained to the police about the obstruction allegedly caused by the petitioner from discharging their duties, but the Deputy Director, who visited the school, found absence of children and failure of teachers to impart education to the children and therefore, he lodged a report to the police to take appropriate action. Accordingly, the Inspector of Police registered a crime against the petitioner and that too, the investigation in this matter is not yet commenced and the offences allegedly committed by the petitioner under Sections 448, 353, 506, 341 IPC are punishable with imprisonment for less than 7 years. When the investigation is not yet commenced, it is difficult for this Court to conclude that lodging of complaint is an abuse of process of the Court and to exercise inherent jurisdiction, at this stage, in view of the law declared by the Apex Court in **State of Orissa v. Saroj Kumar Sahoo**¹ and **Kurukshetra University v. State Of Haryana**². However, as the offences allegedly committed by the petitioner are punishable with imprisonment for less than 7 years, the investigating agency is directed to follow the procedure under Section 41-A of Cr.P.C. and the guidelines issued by the Apex Court in **Arnesh Kumar v. State of Bihar**³. If the investigating agency is found that the petitioner has committed any of the offences, it can file charge sheet otherwise file a final report before the Court. However, the petitioner is at liberty to renew his request at appropriate stage.

7. With the above observation, the Criminal Petition is disposed of.

¹ (2005) 13 SCC 540

² AIR 1977 SC 2229

³ 2014(2) ALT (CrI.) 457 (SC)

8. Miscellaneous petitions, if any, pending in this criminal petition shall stand dismissed.

M. SATYANARAYANA MURTHY, J

20th December, 2017

Note:
Issue CC by 22.12.2017.

sj

