

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.10422 of 2013

ORDER:

This petition is filed under Section 482 of Cr.P.C by the petitioners/A1 and A2 seeking to quash the proceedings in F.I.R.No.23 of 2013 on the file of Lingampet Police Station, Kamareddy District registered against them for the offence under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “the Act”).

2) The brief allegations in the complaint are that the 2nd respondent/defacto-complainant belongs to S.T (Girijan) community. On 10.02.2013 at about 12:00 noon, while himself and some other persons belonging to Komatpally and Potayapalli Villages were attending the road laying works, both the accused came there and abused the defacto-complainant in the name of caste and attempted to beat him with chappal and on the intervention of the persons who were present there, they went away. The investigation is reported to be pending.

3) Fulminating the complaint allegation, learned counsel for the petitioners/A.1 and A.2 would argue that even if the complaint allegations are taken to be true, no offence within the meaning of Section 3(1)(x) of Act would attract because except the general allegations, no specific allegations are made against the petitioners/A.1 and A.2. Learned counsel would also submit that it is difficult to believe that both the petitioners/A.1 and A.2 had at a time abused the 2nd respondent/defacto-complainant in a similar manner and that the very allegation itself shows the falsity of the

complaint. He would further argue that there is a delay of more than one day in lodging the complaint and is no explanation offered for delay which throws any amount of doubt on the veracity of the complaint. Learned counsel also argued that the alleged offence took place at about 12:00 noon on 10.02.2013 but at that time the 2nd respondent/defacto-complainant was attending GATE 2013 online exam at Mahila Dhyan Vidya Peeth (MDVP), Maharshi College Campus, Begumpet, Hyderabad vide Hall Ticket issued by the authorities which implies the 2nd petitioner/A.2 was falsely implicated in the case. It is also argued that the place where the alleged offence took place was not a public place and, therefore, the charge under Section 3(x)(1) of the Act is not maintainable. Raising all these pleas, he sought for quashing of the proceedings.

4) While opposing the petition, learned Additional Public Prosecutor would, firstly, submit that the complaint allegations are specific to the effect that both the petitioners/A.1 and A.2 have abused the 2nd respondent/defacto-complainant in similar manner touching the caste and, therefore, both of them are liable for the offence under Section 3(1)(x) of the Act. Regarding the delay, learned Addl PP would submit, it is not the stage to discuss about the delay and the petitioners can raise that issue at the relevant stage of the trial. Thirdly, he would argue that, in the admit card filed along with the petition, the name of the candidate is mentioned as “Baradi Prashanth Kumar Reddy”, whereas the name of the 2nd petitioner as mentioned in the cause title is “B.Pratap Kumar Reddy @ Pratap Reddy” and in view of the difference in both the names, the petitioners cannot contend that the 2nd petitioner was falsely implicated in the case. Lastly, he would argue that the offence took

place in the outskirts of Kannapur Village at 12:00 noon in the presence of the villagers of both villages and the charge under Section 3(x)(1) of the Act is maintainable. It is thus prayed to dismiss the petition.

5) The point for determination is:

“Whether there are merits in this petition to allow?”

6) **POINT:** As can be seen from the complaint, it is the case of the 2nd respondent/defacto-complainant that, while himself and the villagers of Komatpally and Potayapalli villages were attending road works, both the petitioners/A.1 and A.2 came and abused him in the name of caste and tried to beat him with chappal. The veracity of the allegations has to be determined only after thorough investigation. So far as the argument raised on behalf of the petitioners/A.1 and A.2 that the allegations are general but not specific is concerned, the allegation is specific but not general as the date, time, place and nature of abuse are detailed vividly. Hence there is a *prima facie* accusation in the complaint which needs thorough investigation. So far as the plea of *alibi* in respect of the 2nd petitioner and delay in lodging the F.I.R are concerned, their impact has to be looked into at the time of trial if charge sheet is filed but not at this stage.

7) Therefore, the F.I.R cannot be quashed at this stage. On the other hand, investigation has to be conducted by the concerned Investigating Officer. However, such investigation shall be conducted scrupulously following the guidelines rendered by the Hon’ble Apex Court in the decision reported in ***Dr. Subash Kashinath Mahajan v. State of Maharashtra and another***¹.

¹ 2018 (1) ALD (Crl.) 629 (SC)

8) Accordingly, this Criminal Petition is disposed of.

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

U.DURGA PRASAD RAO, J

Date: 13th July, 2018.

JSU



THE HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO



Criminal Petition No.10422 of 2013

Date: 13.07.2018

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