

HONOURABLE SRI JUSTICE N. BALAYOGI

CRIMINAL PETITION No.8339 of 2011

ORDER:

This Criminal Petition is filed under section 482 of Cr.P.C., to quash the proceedings in Crime No.255 of 2011 on the file of the Police Station, Sircilla, Karimnagar District.

2. The contention of the petitioners / accused Nos.1 to 4 is that there are land disputes between petitioner No.1 and respondents 2 and 3 as such, petitioners are falsely implicated. Subsequently, petitioner No.1 filed Caveat Petition No.83 of 2011 on 23.8.2011 before Junior Civil Judge, Sircilla, Karimnagar District, apprehending civil case to be filed by the respondents and after receiving notice in the Caveat, present complaint is lodged.

3. It is the further contention of the petitioners that the dispute is purely civil in nature, only to pressurize petitioners for settlement, filed the present Petition twenty days after the alleged incident.

4. None appeared on behalf of respondents 2 and 3 having served notices.

5. Per contra, learned Public Prosecutor contended that there are specific overt acts attributed to the petitioners in the

complaint, petitioners abused complainants touching their caste and tried to grab property by filling well in their land.

6. A perusal of the record go to show that S. Bhoomaiah and S. Padma submitted Telugu typed report dated:06-09-2011 to the Circle Inspector of Police, Sircilla, specifically alleging that there is land in their name (ie.,S. Bhoomaiah and his sister-in-law-S.Padma-2nd complainant, W/o late Narsaiah) in Sy.No.148/10, 148/1 and 149 to the extent of Ac.2.16gts. In the said land, there is 18 yards depth well, cultivating with the help of electric motor having electricity No.11200345. Adjacent land belongs to Bongaram Narayana Reddy. There are land disputes between complainants and Bongaram Narayana Reddy and the said Narayana Reddy encroached land of complainants. The mother of complainant No.1 (Shaga Mallavva) committed suicide by jumping in well, due to mental agony caused by B. Narayana Reddy. After this incident, B. Narayana Reddy executed a document before the Revenue authorities on a stamp paper stating that Ac.0.16gts., land in Sy.No.149 belong to complainants. After some period, when the complainants did not visit the land due to ill-health of their family members, B.Narayana Reddy without the knowledge of anybody filled the well with the help of tractors and occupied the land forcibly. When complainants asked about execution of document which was executed before the Revenue authorities, it was stated by B. Narayana Reddy that the said land of Ac.0.16gts., in Sy.No.149 belongs to him and his sons, Raju, Prabhakar and his co-brother

Mahimala Narsa Reddy, scolded and threatened them with dire consequences and also abused the complainants in filthy language by touching their caste saying as, *Oreyi Maadigoda Emchestavuraa, Neeto Emkaduraa, Antoo Kulamperuto Dooshistu Maanasika Vedanaku Gurichesadu, Malli E Stalamloki Vaste, Ninnu Ekkade Champi Paatesta*". Thus, the petitioner Nos.1 to 3 who are father and sons, abused complainants in filthy language by touching their caste, scolded and threatened to kill if the complainants again enter into the land.

7. The learned Counsel for petitioners submit that the complainants have not stated the place, date and time that incident occurred and the persons among whom abused, insulted and threatened by touching their caste. The language and words used by petitioners are not in public place, but 'within the public view' which means the public must view the person being insulted for which he must be present. He relied upon the judgement of the Apex Court in *ASMATHUNNISA v. STATE OF ANDHRA PRADESH*¹ wherein it was held as under:

"In any place but within public view", which means that the public must view the person being insulted for which he must be present and no offence on the allegations under the said section gets attracted if the person is not present."

8. In the present case, there are specific allegations that petitioners abused complainants in filthy language by touching their caste saying as, *Oreyi Maadigoda Emchestavuraa, Neeto Emkaduraa, Antoo Kulamperuto Dooshistu Maanasika Vedanaku*

¹ (2011) 11 Supreme Court Cases 259

Gurichesadu, Malli E Stalamloki Vaste, Ninnu Ekkade Champi Paatesta". So, the said words occurred in the presence of complainants where the petitioners grabbed land and the well which was filled by tractors in their land is a public place and further the well was filled by B. Narayana Reddy and his sons- Raju, Prabhakar and his co-brother Mahimala Narsa Reddy, during night time without knowledge of the petitioners, taking advantage of their absence due to illness of their family members. This place is a public place which can be viewed as an open place.

9. Similarly, in the case of *PARSA SOMAIAH AND OTHERS v. STATE OF A.P.*, represented by Public Prosecutor, High Court, Hyderabad and another², the High Court held as under:

"To attract the offence punishable under section 3(1)(x) of the SC/ST (Prevention of Atrocities) Act, 1989, the *mens rea* is the essential ingredient. The utterances made in the name of caste should be with an intention to humiliate or intimidate the persons belonging to Scheduled Caste or Scheduled Tribe in a place within public view. The manner in which the utterances were made must be with an intention to humiliate or intimidate the persons belonging to Scheduled Caste or Scheduled Tribe."

10. If really petitioners have no intention to humiliate or intimidate the complainants, they should not have abused the complainants touching their caste. More so, they threatened to kill the complainants, if they again enter into the land. The intention has to be gathered from various circumstances during the trial by considering various factors produced during the evidence. Therefore, whether there is an intention to humiliate

² 2014 (2) ALT (CrI.) 259 (A.P.)

or intimidate the complainants or not has to be decided during the trial but not in an application to quash the proceedings.

11. In view of the facts discussed above, I am of the considered view that there are specific allegations in respect of petitioner No.1 only ie., Bongaram Narayana Reddy and he abused the complainants touching their caste as "Oreyi Maadigoda" etc. Even though the caste of the petitioners is not mentioned in the complaint, it can be established that the petitioners / accused belong to the caste other than Scheduled Caste. But specifically the names of petitioner Nos.1 and 2 are mentioned as Bongaram Narayana Reddy and Mahimala Narsi Reddy. This show that they belong to the caste other than Scheduled Caste and with malice intention insulted the complainants, touching their caste and also threatened to kill. Hence, I find that there is nothing to suggest by giving complaint respondents 2 and 3 abused the process of the Court or any prejudice has been caused to the petitioners.

12. In the result, this Criminal Petition is dismissed. Interim stayed granted in Crl.P.M.P. No.8945/2011, dated:13-09-2011 is vacated.

Miscellaneous Petitions, if any, pending, in this Petition, shall stand closed.

JUSTICE N. BALAYOGI

Dated:06-03-2018

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