

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.1773 of 2018

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner/A.2, seeking to quash the proceedings in Crime No.321 of 2017 on the file of the Kothagudem I Town Police Station, Bhadrachalam District, registered for the offences under Sections 436 of I.P.C. and 3(1)(g) & 3(2)(5) of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Act').

2. Heard the learned counsel for the petitioner/A.2, learned Assistant Public Prosecutor representing the 1st respondent-State and perused the record.

3. The learned counsel for the petitioner/A.2 would submit merely because the de-facto complainant belongs to Scheduled Caste, he cannot invoke the provisions of the Act, as no alleged incident took place. The petitioner/A.2 was not at all present at the scene of offence and he has no connection with the alleged incident. Moreover, the averments made in the First Information Report do not constitute offence under Section 436 of I.P.C. The damage that took place is only worth Rs.15,000/- and ultimately prayed to allow the application.

4. The learned Assistant Public Prosecutor opposed the relief sought by the petitioner/A.2.

5. The point for determination is whether the proceedings in Crime No.321 of 2017 on the file of the Kothagudem I Town Police Station, Bhadracharya Kothagudem District, are liable to be quashed.

6. As per the material placed on record, the de-facto complainant is running a Noodles Shop to eek out his livelihood, near bus stand complex. He was in AIYF, which is affiliated to CPI Party, for sixteen years. For the last three years, he joined Congress party and is an activist. While so, one Kota Shiva Shankar of CPI and Sk.Shabeer Basha (petitioner herein) were having internal disputes which were reflected in social media. Four days prior to lodging of report with the police, the de-facto complainant was threatened by the petitioner/A.2. On 19.12.2017, at about 05:30 PM, the followers of the petitioner/A.2 alleged to have come to the shop of the de-facto complainant, poured two litres of petrol and set the shop ablaze and fled away. There were two workers along with the de-facto complainant at the time of setting fire to the shop. Furniture and ceiling of the shop was burnt. The cost of damage was Rs.15,000/-. On the same day, the report was lodged, First Information Report was issued and the crime is under investigation.

7. As per the records, the de-facto complainant belongs to Scheduled Caste. There is damage to his property by burning. Two other persons along with the de-facto complainant were present at the time of alleged incident. Whether the offence

alleged would constitute offence under Section 436 of I.P.C. is a matter of investigation and it is too early to give any opinion with regard to the alleged offences. When the property of a person belonging to Scheduled Caste is damaged by fire etc., the provisions of the Act can be invoked. However, it is too early to give any opinion with regard to the registration of crime. The matter requires investigation with regard to the innocence or otherwise of the petitioner/A.2. Under these circumstances, it cannot be held that the petitioner/A.2 is an innocent person and he has nothing to do with the alleged burning and alleged threats. Viewed from any angle, it is not a fit case to quash the proceedings. The Criminal Petition is devoid of merit and is liable to be dismissed.

8. In the result, the Criminal Petition is dismissed.

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

Dr. SHAMEEM AKTHER, J

16th February, 2018
Bvv