

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.2454 of 2018

ORDER:

This Criminal Petition, under Section 482 Cr.P.C., is filed to quash the proceedings in FIR No.71 of 2017 of Koyyuru Police Station, Karimnagar District, registered for the offences under Section 3 (1) (r) of SCs and STs (POA) Amendment Act, 2015.

Respondent No.2 lodged a report with police dt. 13.08.2017 alleging as follows:

“ On 13.08.2017 at 16.00 hours the Complainant Shanigaram Ramesh, S/o Gattaiah, 30 yrs, SC Madiga, R/o Vellemkunta Village of malahar Rao Mandal came to PS and lodged a telugu written petition. In which he stated that on 12.08.2017 at about 12.00 hours, the accused Yadandla Gattaiah, R/o Gattupally, h/o Kondampet Village have abused the complainant in filthy language as “ meeru endhuku Vachirura Dhengei Mee Ammanu Anu Butulu Thittuthu Lanja Kodakallara Meeru Velli Ekkadaina choppukonda Raa”

On the strength of the written report given by the complainant, the Police concerned registered a case against the petitioner and issued FIR under SCs and STs (POA) Act.

The petitioner challenged the proceedings in the Crime with the following three grounds:

- i) The incident did not take place within the public view: and
- ii) There is a prior complaint by the petitioner against the respondent, but the police did not file charge sheet; and

(iii) when the allegations made in the complaint do not constitute any offence under the provisions of SCs and STs (POA) Act, continuation of proceedings against this Petitioner is illegal.

Basing on the above grounds, he requested the Court to quash the proceedings by exercising power under Section 482 Cr.P.C.

The allegations made in the written report were extracted in the earlier paras and it disclosed that the petitioner allegedly abused the complainant/respondent No.2 as “meeru endhuku Vachirrura Dhengei Mee Ammanu Anu Butulu Thittuthu Lanja Kodakallara Meeru Velli Ekkadaina choppukonda Raa”. Undoubtedly, the complainant is a member of Scheduled Caste and a tenant in occupation of the property belonging to the petitioner herein, but when he entered into the land, the petitioner allegedly abused him in the manner as stated above.

Section 3 (1) (r) of SCs and STs (POA) Act deals with punishment with intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view.

Using such abusive or filthy language against the complainant, who is a member of Scheduled Caste, would amounts to insult or intimidation. The scene of offence is an open land. But according to the contention of the petitioner, no third party were present at the scene of offence, at this stage, it is

difficult to quash the proceedings on the ground that no third party was present at the scene of offence.

The other ground urged before this Court is that the allegations made in the complaint do not attract the offence under the provisions of SCs and STs (POA) Act. As discussed above, the use of such filthy language against a member of Schedule Caste directly amounts to insult or intimidation, which constitutes an offence punishable under Section 3 (1) (r) of SCs and STs (POA) Act, 2015.

The other contention is that though the complaint lodged by the petitioner is pending with the police, the Police started investigation on the complaint given by the respondent/complainant without taking any action on the complaint given by the petitioner. But pendency of the other crime against the *de facto* complainant is not a ground to quash the proceedings at this stage.

Learned counsel for the petitioner finally brought to the notice of this Court that the petitioner has no intention to humiliate the respondent, but whether he committed any insult or intimidation with intention is a question of fact to be decided based on the material collected during the course of investigation, but not at this stage. Therefore, at this stage, it is difficult to conclude that no *prima facie* material is against the petitioner for offence under Section 3 (1) (r) of SCs and STs (POA) Amendment Act, 2015 since it is a fact to be decided based on evidence.

Learned counsel for the petitioner placed reliance on the following three judgments in support of his contentions.

- i) *Gattu Mahesh and another v State of Andhra Pradesh and another*¹; and
- ii) *Dr. Subhash Kashinath Mahajan v State of Maharashtra and another*²; and
- iii) *Gunda Sampath v State of A.P., rep. by its Public Prosecutor, High Court of A.P., at Hyderabad and another*

In *Gattu Mahesh's* case (1 supra), this Court for non examination of the material witness during investigation quashed the proceedings in PRC No.31 of 2010 arising out of Crime No.243 of 2009 on the file of Judicial Magistrate of First Class, Sircilla, but the principle laid down in the above judgment is not applicable to the present facts of the case since the present case is at the crime stage and the investigation is at foetus stage.

In *Dr. Subhash Kashinath Mahajan's* case (2 supra), the Apex Court made certain observations in para No.75, which are as follows:

“The under privileged need to be protected against any atrocities to give effect to the Constitutional ideals. The Atrocities Act has been enacted with this objective. At the same time, the said Act cannot be converted into a charter for exploitation or oppression by any unscrupulous person or by police for extraneous reasons against other citizens as has been found on several occasions in decisions referred to above. Any harassment of an innocent citizen, irrespective of caste or religion, is against the guarantee of the Constitution. This Court must enforce such a guarantee. Law should not result in caste hatred. The preamble to the Constitution, which is the guiding

¹ 2018(1) ALD (CrI) 443

² 2018 (2) ALT 50 (SC)

star for interpretation, incorporates the values of liberty, equality and fraternity”.

In the above judgment, the Apex Court issued guidelines to be followed by the Investigating Agency to conduct preliminary enquiry etc., but the principle laid down in the above judgment is not helpful to the case of the petitioners.

Curiously, the petitioner also drawn the attention of this Court to the judgment reported in *Gunda Sampath*’ case (3 supra), wherein this Court held in para No.5 and 8 as follows:

“ Here, the incident allegedly took place within the office room i.e., chambers and, therefore, it is not within the public view and as such, the incident would not attract an offence punishable under Section 3 (i) (x) of SCs and STS (PoA) Act. In *Dr. L.V.Rao v State of A.P.* represented by Public Prosecutor, High Court of A.P.,³ this Court considered the scope of section 3 (i) (x) of the Act where the facts of the said decision are almost identical to the decision of Division Bench of this Court regarding promotion but there is no allegation that the petitioner was insulted or humiliated within public view.

In view of the principles laid down by the Apex Court in the judgment i.e., *State of Karnataka v. L. Muniswamy and others*⁴, where the incident alleged to have taken place not within the public view, the complaint is liable to be quashed by exercising power under Section 482 of Cr.P.C., “

Even if the principle laid down in the above judgment, the incident in the present case allegedly occurred in the open land belong to the petitioner and it is an open place and whether the public were present or not at the scene of offence at the time of incident is a question to be decided based on the evidence collected during the course of investigation, but at this stage, it is difficult to quash the proceedings on that ground. More so, this Court cannot exercise power under Section 482 Cr.P.C. to stifle a legitimate prosecution when the facts are in hazy and incomplete in

³ 2016 (1) ALT (Cri) 340 (AP)

⁴ Air 1977 SC 1489

view of the law declared by the Apex Court in *State of Orissa v. Saroj Kumar Sahoo*⁵.

The same principle is laid down in the earlier Judgment of the Apex Court in *Kurukshetra University v. State of Haryana*⁶.

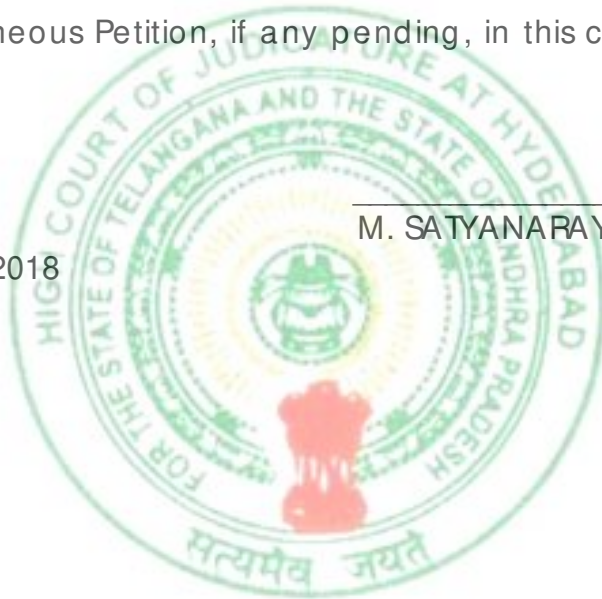
Therefore, by applying the principle laid down in the above judgments, I am not inclined to exercise inherent power under Section 482 Cr.P.C., to quash the proceedings.

Accordingly, this Criminal Petition is dismissed.

Miscellaneous Petition, if any pending, in this case, shall stand dismissed.

Date: 04-07-2018
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M. SATYANARAYANA MURTHY, J



⁵ (2005) 13 SCC 540

⁶ AIR 1977 SC 2229

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY



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