

SMT JUSTICE T.RAJANI

CRIMINAL PETITION No.6021 OF 2013

ORDER:

This petition is filed by the petitioner, who is the accused, seeking to quash the proceedings in S.C.No.61 of 2012 on the file of the court of Special Sessions Judge for SCs, STs cases, Warangal. The offences alleged are under Sections 3(1)(x) of the SC, ST (POA) Act, 1989.

2. Heard the counsel for the petitioner and the Public Prosecutor appearing for the 1st respondent. None appears for the 2nd respondent in spite of notice.

3. The allegations made in the complaint are that the petitioner, who is the neighbour of the complainant, encroached into his land and got it registered and got issued notices from the court and thereafter he did not come for settlement before the local elders and he is not allowing to carry on the repair work for the last one week and doing nuisance to him. On the date of incident, at about 01:30 PM, while he was having lunch at his house, he came to him and abused him in filthy language in the name of their caste, due to which he suffered mental agony. He also submits that the incident was witnessed by some persons and the said persons were shown as witnesses in the FIR.

4. The counsel for the petitioner, in the first place, submits that the incident, having occurred within the house of the petitioner, has not occurred in the public place. He also relies on

a ruling reported in K.PADMA REDDY V. STATIN HOUSE OFFICER, BELLAMPALLI AND OTHERS¹ wherein the court held that the 3rd respondent has categorically stated that the scene of offence was the Chambers of the Municipal Commissioner and there is no allegation to the effect that such utterance was made 'within public view'. Once the basic ingredient is lacking, the offence cannot be said to have been committed by the writ petitioner. In the said decision, it was construed that considering that no allegation to the effect that such utterance was made within the public view and considering that the incident occurred within the chambers, the court held that the offence is not attracted.

5. More clarity comes from the other judgment relied upon by the counsel for the petitioner, which was reported in BHARAT PETROLEUM CORPORATION LTD. MUMBAI V. UNION OF INDIA², wherein it was held that the very section itself is specific that the insult or intimidation should have taken place in public view. But it went on to say that it need not be a public place it could also be a private place.

6. The counsel for the petitioner submits that the public, who are present inside the house, are only the employees of the complainant and hence, it cannot be construed that the incident occurred in the public view. Said contention of the counsel for the petitioner does not find favour with this court, as the persons present in the house, very much form part of public and it is

¹ 2003(2) ALD (CrL) 421 (AP)

² 2000(5) ALD 566

very much specifically mentioned in the complaint that the complainant felt insulted. The statements of the employees were also recorded and in all the statements it was stated that the petitioner came to the house of the complainant and abused him in his caste name.

7. The counsel also submits that a civil suit viz., O.S.No.112 of 2011 on the file of Principal Junior Civil Judge, Mahabubabad, was pending between the parties and in the written statement, which was filed in the said suit subsequent to the alleged incident, the complainant does not mention about this incident. But a mere lapse of the complainant in not mentioning about this incident cannot be considered for quashing the proceedings. He also makes a submission that, as per the averments in the written statement filed by the complainant, he purchased property from one Ramachandra Reddy in the year 2002, but the said person died on 22.06.1994. He also relies on the copy of the death certificate but that issue is the one which has to be decided by the civil court. It may, at best, prove that the complainant has made a false averment.

8. So far as the allegations attracting the offence under Section 3(1)(x) of the Act are concerned, they are very specific and this court has to go by the averments made in the complaint at this stage.

9. Hence, in view of the above, this court opines that it is not safe to quash the proceedings at this stage.

10. With the above observations, the Criminal Petition is dismissed. Interim stay granted by this court on 23.06.2014 shall stand vacated.

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

T.RAJANI, J

December 4, 2018
LMV

