

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.6 of 2017

ORDER:

Heard the learned counsel for the petitioner as well as respondent Nos.1 to 6 and the learned Public Prosecutor appearing for the 7th respondent State.

The present revision case is filed questioning the orders passed in C.F.R.No.482 of 2016 in Crime No.47 of 2012 dated 03.12.2016 on the file of the Judicial Magistrate of First Class, Atmakur, Kurnool District, dismissing the complaint filed by the petitioner.

The facts in brief are that the petitioner herein filed a complaint before the Judicial Magistrate of First Class, Atmakur, stating that on 19.07.2012 at about 10.30 a.m., when he along with his elder brothers (LWs.2 and 3), his wife (LW.4) and one Subba Lakshamma (LW.6) went to their land, they observed that A1 to A5 and their relative A6, belonging to Velgode Village, were laying pipes in the channel already dug in his field. After seeing the same, when the petitioner and his brothers rushed to the spot and questioned the accused as to why they are laying pipeline from their land without their consent, all the accused became wild and came on the petitioner and others angrily and scolded them in filthy language by saying "Madiga Lanja Kodukulara Meeku Endhira Adigedhi. We will do whatever we like and we need not ask you". In the process of scolding, A1 to A3 caught hold of the shirt of the petitioner and beat him indiscriminately with hands and legs and thrown him on the ground. A4 and A5 beat LWs.2 and 3 whereupon he fell down and he was beaten with hands and

legs. In the meanwhile, LWs.2 and 4 to 6 went across the accused and requested them not to beat. A6 went to the ladies and scolded them saying that “Madiga Lanjalara Meeru Kuda Addam Vasthara. Mee Anthu Chustham”. When the petitioner and others raised hue and cry, on hearing, the neighbouring land owners came to the scene of offence. The accused left the place of offence by saying that they will see their end if they object for laying pipeline. After the said incident, on 20.07.2012 the petitioner preferred a complaint in Velgode Police Station. Pursuant to the said complaint, the police registered a crime in FIR.No.47 of 2012, but they did not take any action against the accused. However, after lapse of three years, the police filed a report saying that it is a false case. In those circumstances, the petitioner filed a protest petition vide CFR.No.482 of 2016 in Crime No.47 of 2012. The learned Magistrate, after looking into the protest petition and the statements of the list of witnesses, was pleased to dismiss the complaint by orders dated 03.12.2016 observing that none of the witnesses, including the petitioner, have stated the date, time and place of offence. It is simply stated that the incident occurred about four years back. Further, it is merely stated that the scene of offence is the agricultural land of the petitioner and the details of the said land are not given to specifically show that the petitioner and others have agricultural lands in the said place. Aggrieved by the said order, the present revision case is filed.

Learned counsel appearing for the petitioner would contend that the learned Magistrate failed to appreciate the evidence on record in the form of the complaint, protest petition and the statements of LWs.1 to 7. The Court below ought to have been

seen that the sworn statements of the petitioner and the witnesses *prima facie* establish occurrence of the offence and therefore ought to have taken cognizance of the offence. Learned counsel also submitted that LWs.1 to 7 categorically stated the date, time, place of offence as well as the land with survey number where the offence has been committed. Therefore, the order impugned in the present revision case has to be set aside.

In fact, this Court, on 23.07.2018, directed the learned Public Prosecutor to get instructions as to under what circumstances the closure report was filed or in the alternative, the officer, who filed the closure report has to be present before this Court. In response to the said orders, the learned Public Prosecutor produced the file.

A perusal of the said file would reveal that the petitioner and LWs.2 to 6 have categorically stated that when the petitioner and his family members on 19.07.2012 at about 10.30 a.m. went to their lands in Sy.No.326, the accused were laying pipeline through their lands. When the petitioner and his family members obstructed the same, the accused beat them with hands and legs and abused them in filthy language by taking their caste name. In these circumstances, it cannot be said that no *prima facie* case is made out much less when the list of witnesses i.e., LWs.1 to 6 have stated the commission of offence with reference to the date, time and place of offence. In fact, the observation of the Court below on which the complaint has been dismissed is contrary to the record in the form of statements recorded by the police.

A mere perusal of the complaint and the statements of the petitioner and other list of witnesses, clinchingly establish that the

petitioner pleaded the date, time and place of offence as well as the land with reference to survey number where the offence has been committed. As such, the order impugned in the present revision case, does not sustain and the same is liable to be set aside.

Accordingly, the criminal revision case is allowed, setting aside the orders passed in CFR.No.482 of 2016 in Crime No.47 of 2012 dated 03.12.2016 on the file of the Judicial Magistrate of First Class, Atmakur. The learned Magistrate is directed to proceed with the matter after following the procedure as per law.

Miscellaneous petitions, if any, shall stand closed.

Date: 27.07.2018.
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P. KESHAVA RAO, J