

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

I.A.No.1 of 2018 in CrI.P.No.3489 of 2018

and

CrI.P.No.3489 of 2018

COMMON ORDER:

Criminal Petition No.3489 of 2018 is filed by petitioners/A1 and A2 to quash the proceedings against them in Cr.No.18 of 2018 of Allagadda Town PS, Kurnool District, registered for the offences under Sections 307, 506 r/w 34 IPC and Section 3(1) (r), 3(1)(s) of SC and ST (POA) Act, 1989.

2) Briefly stated the complaint allegations are that the complainant is JCB operator in Allagadda; on 26.02.2018 in the process of attending drainage works between Ramalayam and Court in Allagadda Town on the instructions of contractor—Gangadhar Reddy, the complainant was attending earth removing work. At that time the compound wall of one Silpa Chary was found obstructing the work. Hence, Panchayat Officers asked him to remove the compound wall upto three feet and when he was attending the work, the said Silpa chary forcibly obstructed him and stated that if the work was not stopped he would call A1 who is the leader of YSR Party and they would kill him. He informed the said fact to his contractor who in turn consulted Municipal Commissioner and instructed the complainant to proceed with the work. While so, on 02.04.2018 at about 5 PM, when the complainant was attending the culvert work

with the help of staff of Nagara Panchayat, A1 summoned the complainant and one Venkateswarlu, employee of Municipality to his house and there, A1 abused the complainant in the name of his caste and A2 who presented there incited and gave a stick with which A1 beat the complainant and Venkateswarlu indiscriminately and both of them sustained injuries. Some how, both of them came out of the house and got admitted in Government Hospital, Allagadda.

Hence the complaint.

- 3) Investigation is reported to be pending.
- 4) When the Criminal Petition is pending, the *de-facto* complainant and A1 and A2 filed I.A.No.1 of 2018 seeking permission of this Court to compound the offence.
- 5) Heard learned counsel for petitioners and learned Additional Public Prosecutor.
- 6) Seeking permission, the submission of learned counsel for petitioners is that the complaint was lodged at the instance of rivals of petitioners/A1 and A2 and at the intervention of elders, complainant and accused entered into a compromise and thereby they proposed to compound the offence and the alleged offence has no repercussion on the society and therefore, permission may be accorded.
- 7) Learned Additional Public Prosecutor opposed the petition stating that charges are grave and there is strong *prima facie*

accusation against the accused and there is every likelihood of securing conviction.

8) The points for determination are:

1) *Whether permission can be accorded to compound the offence?*

2) *If Point No.1 is held negative, whether there are merits in Criminal Petition to quash the proceedings in Cr.No.18 of 2018 against the petitioners?*

9) **POINT Nos.1 and 2:** A perusal of the compliant allegations would show that while the complainant and the employee of Municipality—Venkateswarlu were attending the drainage work, both the accused highhandedly summoned them to their house and there they abused the complainant in the name of his caste and also beat and threatened the victims with dire consequences. Hence, crime is registered under Sections 307, 506 r/w 34 IPC and Section 3(1) (r), 3(1)(s) of SC and ST (POA) Act, 1989 and investigation is reported to be pending. A close scrutiny of the FIR would show a strong *prima facie* accusation against the accused with regard to their highhanded behaviour.

10) On instructions, learned Additional Public Prosecutor produced the Wound Certificates of complainant and Venkateswarlu issued by CAS, Community Health Centre, Allagadda, which would show that both of them suffered abrasions and swellings on their bodies which were referred as simple injuries. Thus, the injuries would shed a

strong *prima facie* truth in the complaint allegations and the possibility of conviction in the case of trial, cannot be obviated at this moment.

11) In *Narinder Singh and others vs. State of Punjab and another*¹ cited by learned counsel for petitioners, the Apex Court gave certain guidelines either to accord or refuse permission to compound the offences. Of those, guideline Nos.V and VI, which are germane for us, are as under:

“(V) While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

(VI) Offences under Section 307 Indian Penal Code would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 Indian Penal Code in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 Indian Penal Code is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 Indian Penal Code. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delecate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie

¹ 2014 (4) SCALE 195

analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.”

12) When the present case is tested on the touch stone of the above guidelines, it consists of heinous crimes, one is under Section 307 IPC and other under Section 3(1)(r), 3 (1)(s) of SC and ST (POA) Act, 1989. No doubt, the injury certificates would show the victims suffered simple injuries. However, the method and manner in which the accused perpetrated the offence is of great concern for this Court and puts it on hold for a moment before considering to grant permission. The facts would show that when the complainant and employee of Municipality were attending their lawful duty, accused highhandedly summoned them to their house, abused the complainant in the name of his caste and beat both of them and thereby obstructed them from discharging their duty. Therefore, in the considered view of this Court, more than the nature of the injuries, the manner in which the accused behaved to terrorize those who were attending public works is the factor that weighs against according permission to compound the offences. Therefore, I.A.No.1 of 2018 is dismissed.

13) Sofaras the prayer to quash the proceedings is concerned, as already observed, there is a strong *prima facie* material against the accused and the investigation is still under way. Hence, it cannot be said that continuation of investigation is abuse of process of law. Therefore, Criminal Petition is liable to be dismissed.

14) In the result, I.A.No.1 of 2018 is dismissed and consequently, Crl.P.No.3489 of 2018 is also dismissed.

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

Date: 30.04.2018
Murthy

U.DURGA PRASAD RAO, J

