

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.4522 OF 2018

ORDER:

This Criminal Petition filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') to quash the proceedings in S.C. No.25 of 2018 on the file of VIII Additional Sessions Judge-cum-Special Sessions Judge for SC/ST (POA) cases, at Warangal, registered against the petitioners for the offence punishable under Sections 417, 420, 506 of the Indian Penal Code, 1860 (for short 'I.P.C.') and Sections 3(i)(r)(s)(w), 3(2)(v)(a) of the Scheduled Castes and Scheduled Tribes (Prevention Of Atrocities) Act 1989 (Amended Act, 2015) (for short 'the Act').

The second respondent – Chityala Lavanya lodged a report with the police dated 04.05.2016 against the petitioner and others for various offences punishable under Sections referred above. On the strength of the same, the police registered the crime and issued F.I.R. on the same day.

The main contention urged before this Court is that there is no specific allegation against the petitioner that she insulted the *de facto* complainant - second respondent herein in the name of her caste, and therefore, the proceedings against her are liable to be quashed. It is also contended that the *de facto* complainant filed notarised affidavit before the police excluding the involvement of the petitioner in the incident falls within Section 3(2)(r)(s) of the Act and therefore, the proceedings are liable to be quashed and requested to quash the proceedings.

At the stage of admission, Sri M.Ajay Kumar, learned counsel for the petitioner would draw the attention of this Court to

last paragraph of the complaint to contend that the complaint is bereft of details with regard to time and date of incident and in the absence of any details, the proceedings cannot be initiated against the petitioner for the offence punishable under Sections referred above. It is also brought to the notice of this Court that the second respondent filed a petition before the Sessions Court excluding the participation of the petitioner in the above crime and requested to quash the proceedings in S.C. No.25 of 2018.

The first and foremost contention raised before this court is that the complaint is totally silent with regard to the date and time of occurrence, though there is an allegation at the end of the complaint that brother-in-law Akash and his wife Swetha abused the *de facto* complainant in filthy language on the ground that she belongs to lower caste, but no details like time and date were mentioned in the complaint.

Failure of the *de facto* complainant - second respondent mentioning minute details like date and time of occurrence in the F.I.R. is irrelevant at this stage, that apart the F.I.R. is only information to the police about commission of cognizable offence. It need not contain minute details since it is not an encyclopaedia of facts. Therefore, on the ground that F.I.R. is bereft of details like time and date, the proceedings cannot be quashed at this stage, when the Sessions case is pending for charges before the Sessions Judge. Even otherwise the statement of the *de facto* complainant - second respondent recorded by the police under Section 161 (3) Cr.P.C. disclosed the petitioner and her husband abused her in filthy language that she belongs to lower caste and necked her out

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from the house, the same is supported by the statement of other witnesses. Though the statements recorded by the police under Section 161(3) Cr.P.C. are not the evidence, but at this stage, the court can rely on the statement recorded by the police during investigation and it is a part of charge sheet under Section 173(2) Cr.P.C. and thus the material found on record against the petitioner *prima facie* pointing out her involvement in the crime, more particularly, for the offence punishable under Section 3(2)(r)(s) of the Act, where it is not her case that she did commit any offence under Sections 417, 420 and 506 of I.P.C. However, it is left open to the Sessions Court to frame appropriate charge against the petitioner, if substantial material is available to attract the offence.

Therefore, it is not a fit case to exercise power under Section 482 Cr.P.C. in view of law laid down by the Apex Court in **STATE OF HARYANA V. BHAJAN LAL¹**. Consequently, the criminal petition is liable to be dismissed.

In the result, the criminal petition is dismissed, leaving it open to raise this contention before the trial court to file a petition before the Sessions Court for discharge of the petitioner.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTHY, J

Date:04.06.2018
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¹ 1992 Suppl. (1) SCC 335