

SMT JUSTICE T.RAJANI

CRIMINAL PETITION No.8889 OF 2011

ORDER:

This Criminal Petition, under section 482 of Cr.P.C., is filed by the Petitioners/A-1 to A-6 seeking to quash the proceedings in Crime No.111 of 2011 of Mahabubnagar I Town Police Station, Mahabubnagar District, registered for the offences punishable under Sections 448, 363, 506 and 507 R/w.149 of I.P.C. and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Act of 1989').

2. Heard learned counsel for the petitioners, learned Public Prosecutor, appearing for the respondents 1 and 2. None appears of the 3rd respondent – Complainant.

3. The complaint is to the effect that the petitioners went to the house of the complainant, when he was at his house, and abused him in his caste name and kidnapped him, from his house, forcibly and, in the middle of kidnap, he escaped from the petitioners at Boyapalle gate, with great difficulty, and reached his house. It further states that since three months the petitioners were calling and threatening the complainant and going to his house, during night, and abusing him in all manners. Hence, he sought protection for his life.

4. Learned counsel for the petitioners submits that, subsequent to filing of this complaint, a suit in O.S. No.6 of 2012 was filed by 3rd petitioner herein, against the complainant, on the file of II Additional Senior Civil Judge (FTC) at Mahabubnagar (for short, 'the Court below') for recovery of the amount, basing on a promissory note, said to have been executed by him on 06.10.2010, which was decreed in his absence. But, he has not chosen to appear before the Court below and thereafter E.P. was filed for realization of the decretal amount, but the complainant did not appear there also. That apart, from the face of the complaint, it appears that some inventions are made by the complainant in order to evade the payment that is due to the petitioners. While he states that since

three months he has been receiving phone calls from the petitioners and that they came to his house, and not only misbehaved with him but also abused him, he does not choose to lodge any report with regard to any of those instances which have been taking place since the past three months prior to lodging of the instant complaint.

5. Learned counsel for the petitioners relies on a judgment of this Court in ***Parsa Somaiah and others Vs. State of Andhra Pradesh and another***¹, which is to the effect that when a civil suit is pending, there is every possibility for the accused being implicated in a case and, hence, the Court has to scrutinize allegation with great care and circumspection. It was further held therein that unless the utterances in the name of caste are made with an intention to humiliate or intimidate persons belonging to Schedule Caste/Tribe, in public view, offence punishable under Section 3(1)(x) will not be attracted.

6. The Supreme Court in ***Gorige Pentaiah Vs. State of Andhra Pradesh***² held at Para 6 as under:

“6. In the instant case, the allegation of respondent No.3 in the entire complaint is that on 27.5.2004, the appellant abused them with the name of their caste. According to the basic ingredients of Section 3(1)(x) of the Act, the complainant ought to have alleged that the accused-appellant was not a member of the Scheduled Caste or a Scheduled Tribe and he (respondent No.3) was intentionally insulted or intimidated by the accused with intent to humiliate in a place within public view. In the entire complaint, nowhere it is mentioned that the accused-appellant was not a member of the Scheduled Caste or a Scheduled Tribe and he intentionally insulted or intimidated with intent to humiliate respondent No. 3 in a place within public view. When the basic ingredients of the offence are missing in the complaint, then permitting such a complaint to continue and to compel the appellant to face the rigmarole of the criminal trial would be totally unjustified leading to abuse of process of law.”

7. In this case also there is no such averment in the complaint.

¹ 2015 (1) ALD (Crl.) 143

² (2008) 12 SCC 531

8. Hence, in view of the above, this Court opines that continuation of further proceedings against the petitioners would only be an abuse of process of law.

9. Accordingly, the Criminal Petition is allowed and all further proceedings against the Petitioners/A-1 to A-6 in Crime No.111 of 2011, on the file of the Station House Officer, Mahaboobnagar I Town Police Station, are hereby quashed.

10. As a sequel, miscellaneous petitions if any, pending in this Petition shall stand closed.

T. RAJANI, J

Date: 25.09.2018.
Dsh



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Date. 25.09.2018

DSH