

HONOURABLE SRI JUSTICE P. KESHA VA RAO

CRIMINAL PETITION No. 9227 of 2011

AND

CRIMINAL PETITION No. 9228 of 2011

COMMON ORDER:

Heard the learned counsel for the petitioners/A-1 & A-2, learned Public Prosecutor and the counsel for the second respondent.

Both the criminal petitions are arising out of the same crime. Therefore, the learned counsel accepted to hear the arguments jointly and common order can be passed. Accordingly, the above said criminal petitions are taken up and heard the arguments.

Crl.P.No.9227 of 2011 is filed by the petitioner/A-1 and Crl.P.No.9228 of 2011 is filed by petitioner/A-2 invoking the jurisdiction of this Court under Section 482 Cr.P.C. to quash the proceedings in Crime No.303 of 2011 for the offence under Section 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989 (for short 'the Act') on the file of the Police Station, Gandhinagar, Hyderabad.

The facts of the case are that on 21.09.2011 at 1030 hours, the Sub-Inspector of Police, Gandhinagar Police Station received a complaint from the second respondent stating that he obtained permission to erect a tent at Indira Park from the Deputy Commissioner of Police, Central Zone, Hyderabad vide No. HC-1/761/2011 dated 15.02.2011 for conducting relay hunger strike at Indira Park to agitate for the formation of Telangana State from 17.02.2011 to 21.02.2011. Pursuant to the same, on 20.02.2011 the

second respondent erected a temporary tent and while they were on hunger strike, the followers and political party leaders of the petitioners removed the tent of the second respondent and erected their tents. On questioning, the above said leaders criticized and abused him taking his caste name. In this regard, though a complaint was lodged, no action was taken. Thereafter, he approached this Court and filed W.P.No.11775 of 2011 questioning the in action on the part of the respondents therein. On the directions of this Court, a crime has been registered vide F.I.R.No.303 of 2011 for the offence under Section 3(1)(x) of the Act. Aggrieved by the registration of the said crime, the present criminal petitions are filed.

Sri C. Nageshwar Rao, learned Senior Counsel appearing for the petitioners would contend that the petitioners are innocent and they have not committed any offence much less the offence as alleged. They were implicated in the offence at the instance of their political rivals only to harass them. He further contended that in W.P.No.11775 of 2011, the State have filed written instructions before this Court and the relevant portion is as under:

“It is submitted that the enquiry has revealed that the petitioner has obtained permission for assembly of 5 or more persons to organize relay hunger strike at Indira Park from 17.02.2011 to 21.02.2011 from 11 A.M. to 2.00 P.M. It is also revealed that during the said period and night hours, Y.S. Jagan party or anybody did not remove the tent of the petitioner's party and hence no action was taken against the unofficial respondents 4 and 5 or anybody.”

Basing on the said written instructions, the said writ petition is disposed of by this Court on 29.07.2011. Therefore, he submitted

that the petitioners have not committed any offence much less removing the tent said to have been erected by the second respondent and even on enquiry, it is revealed that the petitioners did not remove the tent of the second respondent's party and as such, no action was taken against the unofficial respondents 4 and 5 or anybody. That apart, he also contended that on 20.02.2011, two complaints are filed in the office of the Deputy Commissioner of Police, Central Zone. In the first complaint, the allegation is the removal of the tent by the petitioners and on enquiry by the second respondent it was informed that the petitioners have not removed the tents and they are not aware of the things. However, there is a second complaint on the very same day whereunder not only the removal of tents is referred to but also it is said that the second respondent was abused by the petitioners taking his caste name. The second respondent has filed a third complaint dated 2.03.2011 before the Station House Officer, Gandhinagar Police Station, Hyderabad. Basing on the said three complaints, he submitted that the second respondent, is improving the case since in the first complaint there is no allegation that he was abused by the petitioners taking his caste name. However, in the subsequent complaints, the same has been crept in. That apart, even if the contents of the said complaints are taken into consideration in their entirety, no prima facie case is made out since the basic ingredients of Section 3(i)((x) of the Act i.e. intentionally insults or intimidates with intend to humiliate a member of scheduled caste or a scheduled tribe in any place within public view, is not made out from the perusal of the contents. Further, the instructions placed

by the State while disposing of W.P.No.11775 of 2011 on 29.07.2011 are that during the said period and night hours, Y.S.Jagan party or anybody did not remove the tent of the second respondent party and hence no action was taken against the unofficial respondents 4 and 5 or anybody. These instructions placed before this Court also supports that the complaints lodged by the second respondent are all false and therefore, the crime registered pursuant to the directions of this Court vide F.I.R.No.303 of 2001 is liable to be quashed.

Per contra, the learned counsel appearing for the second respondent would contend that since no action was taken pursuant to the complaint dated 20.2.2011. He filed another complaint dated 2.03.2011 and thereafter filed W.P.No.11775 of 2011 in this Court. Pursuant to the directions given by this Court, Crime No.303 of 2011 is registered and the crime is at the stage of investigation. Therefore, at this stage, the proceedings initiated cannot be quashed. The learned counsel also brought to the notice of the court the language used in the second and third complaints about abusing the second respondent taking his caste name by the petitioners.

Learned Public Prosecutor produced the written instructions filed in W.P.No.11775 of 2011 and based on the same, he would submit that pursuant to the complaints lodged by the second respondent as stated supra, the police have already enquired into and found that the petitioners or anybody did not remove the tents of the second respondent's party and as such, no action was taken

against the unofficial respondents 4 and 5 therein or anybody. Further, he also brought to the notice of the court that the contents in the complaints are bald in nature and no specific allegations particularly attracting the basic ingredients of Section 3(i)(x) of the Act are made out.

From the perusal of the contents of the complaints as well as the criminal petitions and the material placed on record, it is revealed that the second respondent filed two complaints dated 20.2.2011 and another complaint on 2.3.2011. As no action was taken, he was constrained to file W.P.No.11775 of 2011 in this Court. Pursuant to the directions given in the above said writ petition, crime vide F.I.R. No.303 of 2011 was registered for the offence under Section 3(i)(x) of the Act. A careful perusal of the complaints would indicate that in the first complaint dated 20.11.2011, there is no allegation of abusing the second respondent with caste name. However, in the second complaint, the removal of tent and for the first time abusing the second respondent with caste name is mentioned. Further, there is no specific allegation as to when the said allegations are made, whether anybody was present and whether it was in public view or not, are not mentioned. In fact, this Court in *P. ANAND RAO AND OTHERS v. STATE OF A.P. AND ANOTHER*¹ held that unless specific allegations are made with regard to attracting the basic ingredients of Section 3(i)(x) of the Act, the proceedings are liable to be quashed. Further, this Court in Criminal Petition No.2786 of 2013 also held that '*the provisions of*

¹ 2013 Law Suit (AP) 653

Section 3(1)(x) of the Act would get attracted only when an alleged incident occurs in any place within public view. In view of the interpretation given to the said provision, it can safely be said that section 3(1)(x) of the Act gets attracted only when the incident takes place either in a private place or in public place but the same should be in public view. Even, the written instructions placed before this Court in W.P.No.11775 of 2011 also, goes to show that on enquiry, it was revealed that no such incident happened abusing the second respondent taking his caste name by the petitioners. In these circumstances, this Court feels that the proceedings initiated against the petitioners, though at crime stage, are liable to be quashed.

Accordingly, both the criminal petitions are hereby allowed quashing the proceedings initiated against the petitioners/A-1 & A-2 in Crime No.303 of 2011 for the offence under Section 3(1)(x) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities Act), 1989 on the file of the Police Station, Gandhinagar, Hyderabad.

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

P. KESHA VA RAO, J

Date:19.04.2018
Ccm

HONOURABLE SRI JUSTICE P. KESHAVA RAO



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