

SMT JUSTICE T.RAJANI

CRIMINAL PETITION No.10801 OF 2011

ORDER:

This Criminal Petition, under section 482 of Cr.P.C., is filed by the petitioner/accused seeking to quash the proceedings in S.C. No.7 of 2011, pending on the file of the Court of VII Additional District and Sessions Judge-cum-Special Sessions Judge for trial of cases under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Ongole, Prakasam District (for short, 'the trial Court'), registered for the offences punishable under Sections 323 and 506 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 petitioner, learned Public Prosecutor, appearing for the 1st respondent – State, and learned counsel for the 2nd respondent – *de-facto* complainant.

3. The complaint is filed stating that the complainant has taken some amount as loan from the petitioner and in that regard a promissory note was also executed by the complainant under the influence of alcohol. Later, when the petitioner got issued notice to the complainant asking for repayment of the said loan, the complainant went to the petitioner and questioned as to why he got issued the legal notice and, while he was talking to the petitioner, the petitioner abused him in filthy language touching his caste name.

4. Learned counsel for the petitioner submits that in order to avoid payment of loan amount, the complainant has invented all false facts. The Police after due investigation filed final report stating that it is a false case; against which a protest petition was filed by the complainant and the Court

took cognizance of the case. Questioning the said order of taking cognizance, the petitioner is before this Court.

5. A perusal of the averments of the complaint would by themselves suggest they are invented for the purpose of avoiding the loan that is due by the complainant. Apart from the above, the complaint nowhere discloses that the petitioner does not belong to scheduled caste or a scheduled tribe.

6. Learned counsel for the petitioner 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.

7. 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

¹ 2015 (1) ALD (Crl.) 143

² (2008) 12 SCC 531

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.”

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

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

10. Accordingly, the Criminal Petition is allowed and all further proceedings against the petitioner in S.C. No.7 of 2011, pending on the file of the Court of VII Additional District and Sessions Judge-cum-Special Sessions Judge for trial of cases under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Ongole, Prakasam District (for short, ‘the trial Court’), are hereby quashed.

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

T. RAJANI, J

Date: 04.10.2018.
Dsh

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Date. 04.10.2018

DSH