

THE HON'BLE SRI JUSTICE P.KESHA RAO

CRIMINAL REVISION CASE No.1310 OF 2017

ORDER:

This Criminal Revision Case is filed questioning the orders passed in R.C.No.06 of 2015 in Crime No.113 of 2014 dated 09.06.2016 on the file of Court of the Judicial Magistrate of First Class, Rampachodavaram, in taking cognizance against the petitioner herein for the offences under Section 506 IPC and Section 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Heard the learned counsel for the petitioner as well as the second respondent.

The facts of the case are that the second respondent herein lodged a complaint on 28.10.2014 before the Inspector of Police, Rampachodavaram Police Station alleging that one Nagu-A.1 and Surendra-A.2, in the presence of one Kiran, abused him taking his caste name. Pursuant to the said complaint, a crime was registered vide F.I.R. No.113 of 2014 for the above said offences and after completing the investigation, a charge sheet was filed against the accused. In the charge sheet, the Assistant Superintendent of Police, Rampachodavaram i.e. the investigating officer categorically referred the case as 'false one' on 13.06.2015. Aggrieved by the same, the second respondent-complainant filed a protest petition under Section 200 of Cr.P.C. vide R.C.No.6 of 2015. The Court below after recording the statements of the second respondent herein and other witnesses, passed orders on 09.06.2016 taking cognizance for the aforesaid offences against the

petitioner herein and other accused. Aggrieved by the same, the present revision is filed.

The learned counsel for the petitioner would contend that the name of the petitioner herein is not referred by the second respondent either in the complaint or in the protest petition filed before the Court below. As such taking cognizance of offence against the petitioner herein for the aforesaid offences is not sustainable in law. However, the counsel appearing for the second respondent contended that the name of the petitioner herein has been referred in the complaint. As far as the protest petition is concerned, there is no reference of the name of the petitioner herein. Therefore, she contended that there is no irregularity or illegality in the order passed by the Court below.

Having heard both the counsel and a perusal of the material on record would reveal that absolutely, there is no reference of the name of the petitioner herein in the complaint lodged by the second respondent on 29.10.2014. What all that is stated in the complaint is that the A.1 and A.2 have referred the name of the petitioner herein. As far as the protest petition is concerned, there is no reference of the name of the petitioner except stating in paragraph 6 that 'on 14.09.2015 at 10.00 a.m. when the second respondent went to the work spot at Mupperpalam Village and observed A.1 and A.2 are getting works done by the third parties with the diamond rope belonged to him, and that A.1 and A.2 in highhanded manner, abused him in filthy language by touching his caste name. Except the said allegation, there is nothing even in the protest petition. That being the position, referring the

petitioner's name in the sworn statement is only an afterthought to implicate him as one of the accused in the crime. Even a perusal of sworn statement given by the second respondent also would indicate that when he visited the quarry, he noticed that one Nagaraju was cutting the stones with the help of others. Even there also, there is no reference with regard to the presence of the petitioner herein. However, since the second respondent has taken the stand that he was abused by touching his caste name, he referred the name of the petitioner herein in the subsequent sworn statement, which clearly establishes that with an oblique motive, the second respondent has implicated the petitioner. Therefore, this Court is of the opinion that when the presence of the petitioner was not even deposed by the second respondent either in the complaint or in the protest petition, taking cognizance against him for the aforesaid offences does not arise.

Accordingly, the Criminal Revision Case is allowed setting aside the orders passed in R.C.No.6 of 2015, dated 09.06.2016 on the file of the Judicial Magistrate of First Class, Rampachodavaram to the extent of taking cognizance against the petitioner herein for the offences under Section 506 IPC and Section 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in Crime No.113 of 2014 on the file of S.H.O., Rampachodavaram Police Station.

Pending miscellaneous petitions, if any, shall also stand closed.

P.KESHAVA RAO,J

04th JULY 2018.

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