

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.1347 of 2018

ORDER:

Heard the learned counsel for the petitioner and the learned Public Prosecutor for the respondent State.

The present criminal revision case is filed questioning the orders passed in CrI.M.P.No.788 of 2017 in S.C.No.33/S/2017 dated 03.01.2018 on the file of the Court of the Special Sessions Judge-cum-IV Additional Sessions Judge, Guntur, dismissing the petition filed under Section 227 Cr.P.C., to discharge the petitioner for the offences charged against him.

The facts which led to the initiation of the criminal proceedings against the petitioner and others are that on 12.01.2017, the de facto complainant lodged a complaint before the Inspector of Police, I Town Police Station, Narasaraopet, stating that he is working in Sri Krishnasramam Harijan Industrial School as Manager for the last 20 years. Sri Ranganath Sai is the Managing Trustee, Sri M. Sekhar is the Trustee and Sri Kota Lakshmidhar Naidu is the founder trustee members. Six months prior to filing of the complaint, the management of the trustee was changed, but no information was given to him. In fact, he was obstructed by M. Sudarshan Kumar and A. Suryanarayana from doing his activities. When questioned, they abused him by touching his caste name and they are not allowing him to

do his work, as he belongs to Madiga caste. It is also stated in the said complaint that in the last month prior to the filing of the complaint, Sri M. Sudarshan Kumar scolded him stating as:

“Madiga na koduka neevu emi chestunnava office lo.”

Sri A. Suryanarayana, who obstructed the de facto complainant from doing his job, also abused him as:

“Nuvvu emichestavura madiga na kodaka.”

The de facto complainant complained to the founder trustee, Sri Lakshmidhar Naidu, but due to his ill-health no action was taken. Therefore, he requested to take action. Pursuant to the said complainant, a crime was registered vide FIR No.12 of 2017 for the offence under Section 506 IPC and Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Pursuant to the registration of the crime, investigation was completed and a charge sheet was laid for the offences under Section 506 read with Section 34 IPC and Section 3(1)(r)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (for short, “the Act, 2015”). The committal Court has taken cognizance of the offence and numbered the case as S.C.No.33/S/2017. During the pendency of the said session’s case, the petitioner, who is A2, filed a petition vide CrI.M.P.No.788 of 2017 under Section 227 Cr.P.C. to discharge him for the offence he was charged on the file of the Special Sessions Judge-cum-IV Additional

Sessions Judge, Guntur. After hearing, the learned Sessions Judge by orders dated 03.01.2018 dismissed the petition holding that there are no merits in it. Aggrieved by the same, the present revision case is filed.

Learned counsel appearing for the petitioner contended that the petitioner has not committed any offence and he is falsely implicated in the case. The prosecution, without properly appreciating the evidence on record, simply filed a charge sheet against the petitioner. The learned counsel further submitted that the allegations in the complaint as well as in the charge sheet would not satisfy the ingredients of the offences under Section 3(1)(x)(r)(s) of the Act, 2015 since there is no averment that the alleged abusing of the complainant is with a view to humiliate him and the said abusing was within the public view.

The learned Public Prosecutor appearing for the respondent State supported the impugned proceedings.

In the light of the above said rival contentions, the point for determination is:

Whether there are any merits in the present revision case to allow the same?

The main allegation against the petitioner is one under Section 3(1)(x)(r)(s) of the Act, 2015 and the same reads as under:

“3. Punishments for offences of atrocities – (1)

Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled caste or a Scheduled Tribe in any place within public view;

(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view.”

To attract the said offence, the requisite ingredients are that the offender should not be a Member of Scheduled caste or Scheduled tribe and he intentionally insults or intimidates with intent to humiliate a member of the Scheduled caste or Scheduled tribe and it should be in any place within public view. In the light of the said rival contentions and the language employed in the above said provision, it is to be seen whether any *prima facie* case is made out against the petitioner for commission of the offence for which he is charged.

A perusal of the complaint as well as the charge sheet would indicate that except abusing the complainant with his caste name, there is absolutely no allegation that the petitioner with a view to intentionally insult or intimidate or humiliate the complainant, abused him and that too in a place within the public view. In the charge sheet for the first time it is mentioned that on 25.12.2016 at about 12.00 noon the complainant openly and publicly abused and made false allegations against the management to media. Taking the

said incident as basis A1 threatened to do away with the life of the complainant besides abusing him taking his caste name. On 26.12.2016, at 9.30 a.m. when the complainant was in the company of LW.4 (attender), A2 found fault with him for leaking out the trust matters to the press, media and humiliated him by taking his case name and threatened him that he will be sent away from the office by the end of the month. Finally, termination notice was issued on 28.12.2016. Admittedly, the complaint was lodged on 12.01.2017 i.e., more than two weeks after the alleged incident. There is no explanation for the said delay either in the complaint or in the charge sheet. That apart, the allegations made therein also will not satisfy the basic ingredients for commission of the offence under Section 3(1)(x)(r)(s) of the Act, 2015. The said issue has been considered by this Court in **Parsa Somaiah and others vs. State of A.P. and another**¹. The relevant portion reads as under:

“To attract the offence punishable under Section 3(1)(x) of the SC/ST (Prevention of Atrocities) Act, 1989, the *mens rea* is the essential ingredient. The utterances made in the name of caste should be with an intention to humiliate or intimidate the persons belonging to Scheduled Caste or Scheduled Tribe in a place within public view. If in the course of a quarrel took place in the fields the petitioners abused the de facto complainant and his people by using the caste name, the said act by itself in my view does not automatically attract the offence punishable under Section 3(1)(x) of the SC/ST (POA) Act, 1989. The manner in which the utterances were made must be with an intention to humiliate or intimidate the persons belonging to Scheduled Caste or Scheduled Tribe.”

¹ 2015 (1) ALD (CrI.) 143

In **P. Bhaskar Raju vs. State of Telangana and others**² this

Court held as under:

“In *Daya Bhatnagar’s* case (supra), one of the points referred to third Judge is:

“(1) What is the correct and real meaning of expressing “public view” occurring in Section 3(1)(x) of SC/ST (POA) Act, 1989 and whether it would include the view of the accused in a counter FIR?”

It was held as follows:

Para 15 xxxxxx

(c) the incident must come in any place within the public view. There cannot be any dispute that the offence can be committed at any place whether it is a private place or a “public view” as long as it is within the “public view”. The requirement of “public view” can be satisfied even in a private place, where the public is present.”

Para 19 xxxxxx

“Keeping this in view, looking to the aims and objects of the Act, the expression “public view” in Section 3(1)(x) of the Act has to be interpreted to mean that the public persons present, (howsoever small number it may be), should be independent and impartial and not interested in any of the parties.”

In the case on hand if all the facts mentioned in the complaint and the charge sheet are accepted to be correct in their entirety, the same cannot establish commission of the offence under Section 3(1)(x)(r)(s) of the Act, 2015, against the petitioner. That apart, there is a delay of more than two weeks from the date of alleged incident and lodging of a complaint and this is also a strong circumstance which shows any amount of doubt with regard to commission of offence, more so, when it is not properly explained as to the delay for lodging the complaint.

² 2015 (2) ALD (cr.) 150

In these circumstances, this Court is of the opinion that no *prima facie* case is made out for commission of the offence under Section 3(1)(x)(r)(s) of the Act, 2015, and to that extent the revision case is liable to be allowed.

Accordingly, the criminal revision case is allowed in part to the extent of discharging the petitioner for the offence under Section 3(1)(x)(r)(s) of the Act, 2015, in S.C.No.33/S/2017 on the file of the Court of the Special Sessions Judge-cum-IV Additional Sessions Judge, Guntur.

Miscellaneous petitions, if any, shall stand closed.

Date: 15.06.2018.
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P. KESHA RAO, J

