

SMT JUSTICE T.RAJANI

CRIMINAL PETITION No.13256 OF 2011

ORDER:

1. This Criminal Petition, under section 482 of Cr.P.C., is filed by the petitioners/accused Nos.2 and 3 seeking to quash the proceedings in P.R.C. No.59 of 2011, on the file of the Court of III Additional District Munsif Magistrate, Tirupati, Chittoor District (for short, 'the trial Court'), registered for the offences punishable under Sections 376 and 328 R/w.109 of I.P.C. and Sections 3(2)(v) 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 and learned Public Prosecutor, appearing for the 1st respondent - State. There is no representation on behalf of Sri G.Sudheer, learned counsel appearing for the 2nd respondent – *de-facto* complainant.

3. The allegations against the petitioners herein are that they have taken the *de-facto* complainant, who is the victim girl, and have facilitated the rape committed against her by A-1. The complaint and the statement of the victim girl show the complicity of the petitioners in the alleged crime. *Prima-facie*, the petitioner/A-2 was stated to have been present along with the victim girl by the time she regained consciousness from the sedatives caused due to something which was mixed in the cool drink consumed by her. The allegation against the petitioner/A-3, who is the cousin brother of A-1, is that he aided A-1 in committing the alleged offence.

4. However, so far as the offence under Section 3(2)(v) of the Act of 1989 is concerned, learned counsel for the petitioners submits that the

statement of the victim girl does not disclose that the alleged offence was committed against her due to she belonging to the scheduled caste.

5. A perusal of the complaint and the statement of the victim girl would show that she merely stated that she belongs to the scheduled caste but, it is nowhere mentioned that the petitioners had knowledge that she belongs to the scheduled caste. The ingredients of Section 3(2)(v) of the Act of 1989 require knowledge on the part of the accused in order to attract the said provision. Hence, when no such knowledge is attributed to the petitioners herein, this Court opines that the said offence does not get attracted to the petitioners herein.

6. In view of the above, proceedings relating to the offence under Section 3(2)(v) of the Act of 1989 are liable to be quashed against the petitioners.

7. In the result, the Criminal Petition is partly allowed. So far as the offence under 3(2)(v) of the Act of 1989 is concerned, further proceedings against the petitioners/accused Nos.2 and 3 in P.R.C. No.59 of 2011 on the file of the Court of III Additional District Munsif Magistrate, Tirupati, Chittoor District, are hereby quashed. The Criminal Petition, insofar as quashing the proceedings for the offences under Sections 376 and 328 R/w.109 I.P.C. are concerned, is dismissed.

8. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

T. RAJANI, J

Date: 27.11.2018.
Dsh

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