

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL PETITION No.7644 of 2011

ORDER:

Heard the learned counsel for the petitioners, the 2nd respondent and the learned Public Prosecutor.

The present petition is filed to quash the proceedings initiated against the petitioners vide FIR.No.92 of 2011 for the offence under Sections 447 and 427 IPC and Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "the Act") of the police station, Krosuru, Guntur District.

The facts of the case are that originally, the 2nd respondent lodged a complaint on 06.08.2011 before the Sub-Inspector of Police, Police Station, Krosuru, stating that on 07.05.2011, he has taken agricultural land admeasuring Ac.8.38 cents in Sy.No.122 of Vipparala Village on lease from one Narra Pichaiah for Rs.10,000/- per acre and paid the entire lease amount to him and cultivating the land. About 15 days prior to filing of the complaint, the petitioners herein threatened him saying "how can you people of Madiga caste cultivate our lands and we will see your end by ploughing the field". The 2nd respondent invested an amount of Rs.50,000/- for the seeds. On 05.08.2011, at about 1'0 clock in the midnight the petitioners got the 2nd respondent's land ploughed through the tractor of Kavvuri Mariadas and damaged the cotton crop. Next day morning on seeing the

field and after enquiry when the 2nd respondent came to know through the said Mariadas that the petitioners asked him to plough the land, he lodged a complaint seeking appropriate action against the petitioners. Pursuant to the said complaint, the above said crime has been registered. Aggrieved by the registration of the said crime, the present petition is filed.

Learned Senior counsel appearing for the petitioners would submit that no case is made out against the petitioners, since the basic ingredients attracting Section 3(1)(x) of the Act is not there in the complaint and as far as committing of mischief and thereby causing loss or damage to the 2nd respondent to a tune of Rs.50,000/- or upwards and as far as the trespass is concerned, the 2nd respondent is neither a lessor nor has got any interest in the subject land for the reason that his lessor himself has no title and right over the property in question. He brought to the notice of the Court about the complaint lodged by the mother of the petitioners against the 2nd respondent and his lessor vide Crime No.93 of 2011. In fact, a suit in O.S.No.287 of 1983 was filed for partition on the file of the Subordinate Judge at Narsaraopet, wherein the subject matter of the present petition is the subject of the said suit. The said suit was decreed. Aggrieved by the same, an appeal in A.S.No.1179 of 2000 was filed before this Court. After hearing, this Court was pleased to allow the said appeal on 23.04.2013 upholding

the settlement deed, dated 19.01.1957, executed by the said Pitchaiah in favour of the mother of the petitioners. Therefore, when the lessor of the 2nd respondent has already suffered a decree, the question of he leasing out the subject land to the 2nd respondent does not arise at all. Hence, he sought to quash the proceedings initiated against the petitioners.

Per contra, learned counsel appearing for the 2nd respondent would submit that a perusal of the complaint would reveal that two specific allegations are made against the petitioners with reference to the offence under Section 3(1)(x) of the Act and causing damage to the property worth Rs.50,000/- and also trespassing into the subject land by them. Therefore, he submits that the proceedings, which are at the investigation stage, cannot be quashed.

A perusal of the complaint and material placed before this Court in the form of judgment in A.S.No.1179 of 2000 would indicate that the subject property has been settled in favour of the mother of the petitioners under a settlement deed, dated 19.01.1957, which has been upheld by this Court in A.S.No.1179 of 2000 vide judgment dated 23.04.2013. It is relevant to mention that the lessor of the 2nd respondent is the 8th respondent in the said appeal. It is also brought to the notice of this Court that no further appeal is filed against the said judgment, and the same has become final and it is binding against all the respondents therein. That being so,

the question of the 2nd respondent taking the subject land on lease from his lessor may not arise.

On the other hand, the mother of the petitioners filed a criminal complaint against the 2nd respondent and others for the offence under Section 3(1)(x) of the Act vide Crime No.93 of 2011 and the same is also pending consideration. Coming to the contents of the present complaint, except the statement that the petitioners abused the 2nd respondent as "మాదిగోల్లు"

"పొలము చేస్తరా" నీ సంగతి చూస్తామని, బెదిరించి వెళ్ళినారు", there is no allegation that they were abused in a public view in the presence of outsiders. For convenience, the provisions of Section 3(1)(x) of the Act read as under:

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

According to the said provision, the basic ingredient is whoever not being a member of a Scheduled Caste or a Scheduled Tribe intentionally insults or intimidates with an intention to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view. Thus, the minimum requirement needed for invoking the above said provision is the intentional insult within public view.

However, none of these ingredients are made out from the complaint with reference to the time, place and presence of outsiders. As far as the ingredients of Sections 427 and 447 are concerned, when the lessor of the 2nd respondent has

already suffered the judgment in A.S.No.1179 of 2000 from this Court and he has nothing to do with the subject land, the question of he leasing out the same to the 2nd respondent on 07.05.2011 may not arise and it is a false allegation pressed into service only for the purpose of the present complaint. Looking from any angle, no *prima facie* case is made out against the petitioners for commission of any of the alleged offences.

Under these circumstances, continuation of criminal proceedings, though it is at the investigation stage, would amount to abuse of process of the Court and since when no *prima facie* case is made out from a complaint, the question of putting the petitioners to undergo the process of facing an investigation and thereafter a trial would certainly amounts to mental as well as physical harassment to them. As such, the criminal proceedings initiated against them are liable to be quashed.

Accordingly, the criminal petition is allowed thereby quashing the proceedings initiated against the petitioners in FIR.No.92 of 2001 for the offence under Sections 427 and 447 IPC and Section 3(1)(x) of the Act of Police Station Krosuru, Guntur District. No costs.

Miscellaneous petitions, if any, shall stand closed.

JUSTICE P. KESHA RAO

Date: 05.01.2018.
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