

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.7109 OF 2018

ORDER:

The petitioners are A1 to A10 in Crime No.151 of 2018 on the file of Bitragunta Police Station, SPSR Nellore District. The crime is registered on 16.06.2018 for the offences punishable under Sections 354, 341, 323 and 34 IPC and Sections 3(1)(r) & 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Act').

2. The report of *de facto* complainant shows she is Sarpanch of Siddanapalem Village and her husband is working in a private centre which treats Aids patients and that they were earlier running a private school with name Bhavani Educational Society in 90 ankanams site at their village centre and the school is not running and they are staying in the school premises by paying taxes. Whiles, on 16.06.2018 at about 8.00 A.M. when she was at the house along with her two sons Sarat Kumar and Sravan Kumar, the villagers Ishtati Ranga Reddy, Ramalingam Venkayya Swamy and Ishtati Venkata Rami Reddy came there and heckled them by pointing out index finger as to see their issue and left and later some more persons came by names Ramalingam Yanadi Reddy, K.Krishna Prasad Reddy, Ramalingam Nagarjuna Reddy, Seenaiyah, Pavan Reddy, Raghuramulu Reddy and Narasimha Rao and abused her and her sons by saying they shall not stay in the premises as they belong to SC community and the premises is in the village centre and hence, to shift to their colony and they

questioned as to why they have to leave the premises and therefrom she was pushed by Venkayya Swamy and beat with hands and leg. K.Krishna Prasad Reddy also beat her with leg on her stomach and her sons were beaten by other accused persons and his son sustained bleeding injury to his left ear and in the meantime one A.Adi Sessaiah, Peyyala Seenaiah, Ishtati Bairava Reddy and Golla Haribabu rushed there and rescued them, and they threatened while leaving to see their end unless the *de facto* complainant vacate the premises. The petitioners are seeking anticipatory bail saying none of the provisions 3(1)(r) & 3(1)(s) of the Act apply even taken the entire prosecution story of there is no public view.

3. From the very F.I.R, it shows the so-called witnesses came only after, that too to rescue when they were under attack and not at the time of the alleged abuse much less touching the caste and there is nothing even to say any intention and insult.

4. Learned Public Prosecutor opposed the bail application saying even not mentioned Section 3(1)(g) of the Act applies apart from some of the IPC offences, particularly Sections 354 & 323 covered by the schedule of the Special Act that attracts under Section 325A IPC of the Special Act which are the bar for grant of anticipatory bail.

5. Heard the learned counsel for petitioner and the learned Public Prosecutor and perused the material on record.

6. Even from the very report, it is a society premises where school was earlier running and they are staying in the school premises and the issue is asking to vacate and not otherwise. It is practically a civil dispute in asking to vacate. No doubt, the words used if at all as they are Scheduled Caste they cannot stay in the middle of village as an intentional insult to attract Section 3(1)(r) or 3(1)(s) of the Act, but for there is no public view. So far as asking to vacate else to evict is concerned, it attracts from the threatening to interfere with their possession Section 3(1)(g) of the Act.

7. Having regard to the above, it is not an exceptional case to grant anticipatory bail following the guidelines of the Apex Court in **Dr. Subhash Kashinath Mahajan v. State of Maharashtra**¹ from bar under Section 18 of the Act, but for to say from the very asking of Section 354 IPC also bleak, this is a case of disposal rather than dismissal of the bail application.

8. Accordingly, this Criminal Petition is disposed of giving liberty to the petitioners-A1 to A10 to surrender before the Special Judge concerned and file an affidavit of surrender with notice to the Special Public Prosecutor concerned to file regular bail application before the Special Judge to grant bail with necessary conditions preferably on the same day by virtue of this order.

Dr. B. SIVA SANKARA RAO, J

31.07.2018
MVA

¹ 2018 (2) ALT 50 SC