

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 7917 OF 2018

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') by the petitioner-accused to quash the proceedings against him in crime No. 87 of 2018 of Tadipatri Town Police Station, Anantapuramu District, registered for the offences punishable under Sections 153-A, 504 and 505 (2) of IPC.

2. Respondent No. 2 lodged a written report with Tadipatri Town Police Station on the basis of Facebook posting by the petitioner. It is alleged in the written report that he is faithful to Sri J.C.Diwakar Reddy and his family members of Anantapuramu Parliamentary Constituency who has never been defeated in elections; that he is the supporter and follower of J.C.Diwakar Reddy and if anybody insults Diwakar Reddy, he will suffer and that the petitioner, who is the strong supporter of opposition party, posted an article on Facebook insulting J.C.Diwakar Reddy and created enmity between the two parties. Based on the written report, the above crime was registered for the offences referred *supra*.

3. The present petition is filed mainly on the ground that the allegations made in the report do not constitute any offence much less the offences referred *supra* as they lack common ingredients for promoting feeling of enmity, hatred or ill-will between different religious, racial, language or regional groups or caste or communities and in the absence of disclosing common ingredients to constitute those offences, the proceedings against the petitioner are liable to be quashed

and in support of his contention, learned counsel for the petitioner has placed reliance on ***Bilal Ahmed Kaloo Vs. State of Andhra Pradesh***¹.

4. Whereas learned Public Prosecutor (A.P.) has opposed the petition on the ground that investigation is not yet commenced.

5. To constitute an offence punishable either under Section 153-A or 505 (2) of IPC, the words uttered or posted must promote enmity between different groups on the ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony. As seen from the material on record, the comments made in the Facebook posting though pointing out Sri J.C.Diwakar Reddy, M.P., Anantapuramu, they however do not promote enmity between different groups on the ground of religion, race, place of birth, residence, language, etc., and such comment is not even prejudicial to maintenance of harmony. The facts of the present case are squarely covered by the judgment of the Apex Court relied upon by learned counsel for the petitioner in ***Bilal Ahmed Kaloo*** (*supra*). If the principle laid down in the above judgment is applied to the present facts of the case, the proceedings against the petitioner for the offences punishable under Sections 153-A and 505 (2) of IPC are liable to be quashed and are accordingly quashed.

6. The other offence allegedly committed by the petitioner is punishable under Section 504 of IPC. Section 504 of IPC deals with punishment for intentional insult with intent to provoke breach of the peace. According to it, whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or

¹ AIR 1997 SC 73

with fine, or with both. In the case on hand, the petitioner made serious comments against Sri J.C.Diwakar Reddy, sitting M.P., Anantapuramu, using abusive language intending to insult him and they would certainly break the public peace. Hence, the proceedings against the petitioner for the offence punishable under Section 504 of IPC cannot be quashed.

7. In view of my foregoing discussion, the proceedings against the petitioner for the offences punishable under Sections 153-A and 505 (2) of IPC are quashed while permitting the investigating agency to proceed with investigation for the offence punishable under Section 504 of IPC.

8. The criminal petition is accordingly allowed in part. Pending miscellaneous petitions, if any, in this criminal petition shall stand closed in consequence.

Date: 31-07-2018.
JSK

M.SATYANARAYANA MURTHY, J.

