

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.661 OF 2011

ORDER:

In this petition filed under Section 482 of Code of Criminal Procedure, the petitioners/A.1 and A.2 seek to quash the proceedings in Crime No.8 of 2011 of Eluru III Town (Law and Order) Police Station, Eluru, which was registered for the offence under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The *de facto* complainant lodged complaint with the police of Eluru III Town (Law and Order) Police Station on 18.01.2011 against the accused alleging that she belongs to the Scheduled Caste (Mala) community and in the matter of M.C.No.5 of 2007 and crime No.120 of 2003, her father-in-law Javvadi Venkata Narayana Rao, i.e., A.1, and his son-in-law, i.e., A.2, have been harassing her psychologically and abusing her in the name of her caste. She further alleged that in M.C.No.5 of 2007, she obtained Order in her favour and therefore, the Court issued Non Bailable Warrant (NBW) against her husband Javvadi Venkata Satya Nagalinga Chary and he absconded. While so, since two months prior to the complaint, the accused have been harassing her by phone to compromise the matter and also abused her in the name of her caste. In order to give a complaint against them and also to obtain photostat copy of NBWs issued against her husband, she went to the police station on 18.01.2011. Both the accused also came to the police station. Along with her, she brought the member of Scheduled Castes Atrocity Committee, namely, Namburi Bosebabu. In their presence, the Sub Inspector of Police was enquiring the accused. At that time, both the accused stated that the complainant does not belong to the Scheduled Caste (Mala) and she belongs to Backward Class (C) Community and thereby, they abused her in the name of her caste and caused annoyance to her. Previously also, when they disputed her caste, the District

Collector caused an enquiry through police of CBCID, Revenue Divisional Officer, Sri Penchal Reddy, and also through the Mandal Revenue Officer of Pedapadu and issued caste certificate. Thus, the accused has been harassing her psychologically for the last seven years. The investigation is reported to be pending. Hence, the instant petition.

Notice was served on the second respondent/complainant, but there is no representation on her behalf. Heard learned counsel for petitioners and learned Assistant Public Prosecutor.

Denying the complaint allegations, learned counsel for petitioners would submit that even if the complaint allegations are uncontroverted, the offence under Section 3(1)(x) of the SCs and STs (PoA) Act is not made out. He would argue that in order to bring home the charge under Section 3(1)(x) of the SCs and STs (PoA) Act, it must be established that the accused intentionally insulted or intimidated with an intent to humiliate a member of Scheduled Caste or Scheduled Tribe in any place within the public view. In the instant case, learned counsel would point out, even as per the complaint allegations, the accused merely informed the police that the complainant was not SC (Mala) but, and she belong to BC (C) community. Irrespective of truth or falsity, their statement does not attract the offence under Section 3(1)(x) of the SCs and STs (PoA) Act, since there is no intentional insult or intimidation with an intention to humiliate the complainant. He would, thus, argue that the continuation of investigation would lead to abuse of process of the Court and therefore, the F.I.R., may be quashed.

Learned Public Prosecutor would argue that since the accused have falsely reported to the Sub Inspector of Police that the complainant does not belong to SC (Mala) community but she belongs to a different community, the said statement would *per se* amount to intentional insult and humiliation to a member of the Scheduled Caste and therefore, the offence under

Section 3(1)(x) of the SCs and STs (PoA) Act gets attracted. She, thus, prayed to dismiss the petition.

Section 3(1)(x) of the SCs and STs (PoA) Act 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 intention to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view.

Therefore, the offence under Section 3(1)(x) of the SCs and STs (PoA) Act gets attracted only when a person, who does not belong to a Scheduled Caste or a Scheduled Tribe, intentionally insults or intimidates with an intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within the public view. Therefore, the complainant has to establish that the accused belongs to a caste other than Scheduled Caste or Scheduled Tribe; that the complainant belongs to either Scheduled Caste or Scheduled Tribe and that the accused intentionally insulted or intimidated with an intent to humiliate the complainant at a place within the public view. In the instant case, the accused, no doubt, does not belong to Scheduled Caste or Scheduled Tribe. However, the complainant is concerned, there appears to be a controversy. The allegations in the complaint would show that when the Sub Inspector of Police, Eluru III Town (Law and Order) Police Station, Eluru, was conducting enquiry, the accused allegedly represented before him that the complainant does not belong to Scheduled Caste (Mala) community and she belongs to Backward Caste (C) community.

A plain reading of the complaint allegations do not express an impression that the accused either intentionally insulted or intimidated with an intent to humiliate the complainant. The complaint only gives an understanding that the accused only made a representation to the Sub Inspector of Police that the complainant does not belong to Scheduled Caste. As rightly argued by the learned counsel for the petitioners/accused,

the statement of the petitioners/A.1 and A.2 may or may not be true, but, their representation to the Sub Inspector of Police cannot be inferred as an intentional insult or intimidation with an intent to humiliate the complainant. The gravamen of the offence is that there must be an intentional insult or intimidation to humiliate a member of the Scheduled Caste or Scheduled Tribe within a public view, which is clearly missing in the instant case. The mere representation about the caste of a particular person cannot be treated as an intentional insult or humiliation on the basis of the caste. Therefore, when the complaint allegations are taken as a whole, the offence under Section 3 (1)(x) of the SCs and STs (PoA) Act does not get attracted. Even the other allegation in the complaint that previously also the accused questioned her caste and upon causing enquiry, the Collector issued her caste certificate, do not amount to an offence under the provisions of the SCs and STs (PoA) Act. So, the continuation of the F.I.R., and the investigation in F.I.R. No.8 of 2011 of Eluru III Town (Law and Order) Police Station, Eluru, in my considered view, amounts to an abuse of process of the Court. Therefore, F.I.R. No.8 of 2011 of Eluru III Town (Law and Order) Police Station, Eluru, is liable to be struck down.

In the result, the criminal petition is allowed and the proceedings in F.I.R. No.8 of 2011 of Eluru III Town (Law and Order) Police Station, Eluru, are hereby quashed.

Consequently, miscellaneous petitions, if any pending, shall stand closed. There shall be no order as to costs.

U.DURGA PRASAD RAO, J

08.06.2018
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