

HON'BLE SRI JUSTICE Dr. B. SIVA SANKARA RAO

Criminal Petition No.10042 of 2018

ORDER:

The petitioner is sole accused in Cr.No.150 of 2018 of Bowenpally Police Station, Secunderabad registered for the offences punishable u/ sec.324,354,427 and 506 IPC and under Section 3(1)®(s) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short, 'the Act'), dt.12.05.2018, from the report of the defacto-complainant even date for the alleged occurrence taken place in the early hours at about 5.00 a.m.,on 10.05.2018.

The sum and substance of accusation from the report of the defacto-complainant discloses that some unknown person parked his car opposite to the temple (Jain Mandir) near their house and slept there. Her husband Eerya Naik who used to clean the temple premises in the early morning having been cleaned, asked the driver of the car by woke up to move the car therefrom for cleaning. It is further averred that, for that the person came out from the car and beat her husband with hands and legs with wearing shoes and also picked out iron rod from the car and caused bleeding injury to her husband's head and for that when her husband was running away by crying as somebody was beating him, she woke up from sleep for the cries in her house and came out and that person there caught hold of her tuft and dragged her towards her husband who was in a pool of blood fallen lying and further he beat both of them with iron rod and kicked with legs with shoes unheeding even to their request not to harm and he was under intoxication. It is further averred that they fell on the ground as if dead, he damaged the CC camara and also abused touching caste and the Priest of the temple when came there, he was also beaten and threatened

with abuse of beat him by removing clothes, on that the Priest fled away and after sometime she gained consciousness, since her husband could not regain consciousness they called 100 number and in response Bowenpalli Police came there and they informed same to the police and they were treated in hospital and in the incident, her husband sustained bleeding injuries on two areas over head, hands and back etc., and she also sustained injuries on the back of the neck underneath the neck on front side near chest. .

In fact, the report of her husband on the very date of incident (10.05.2018) reads that he was working as a watchman of the Jain Mandir at Skh road, Secunderabad and on that day at about 5.30a.m. while he was sleeping in the Mandir premises one car bearing No.TS-10-EL-7191 parked in front of the gate, when asked to remove for sweeping, the person who was sleeping in the car in drunken condition came out and abused him and his wife and beat them with legs with wearing shoes in which her husband received injuries on his head.

The police for the report of her husband registered STC case from the PTC and the accused was fined for the offences punishable under Section 323 IPC and Sections 70(B) and (C) of CP Act. Once for the self-same incident on the plea of guilty in STC imposed with sentence by the conviction for the self-same facts, second report is a bar under Section 300 CrPC, leave about the report is with all exaggeration about beating with iron rod etc., as if abused touching caste without even mention of what are the abuses and also leave about what she mentioned is he is a stranger, it is unknown how he could know her caste even to say any attribution of abuses touching the caste.

Having regard to the above, the Criminal Petition is allowed quashing the FIR N.150 of 2018 on the file of the Bowenpally Police Station, Secunderabad. Needless to say if at all the original PTC(STC No.1492 of 2018) is unsustainable, remedy is left open to ask for its reopen and further investigation of the same and not to register another crime for the self-same facts.

Pending miscellaneous petitions, if any, shall stand closed.

Dr. JUSTICE B. SIVA SANKARA RAO

Date:08.11.2018
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