

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.6718 of 2011

ORDER:

This petition is filed, by the petitioners, who are A1 to A6, seeking for quash of the proceedings against them, in Crime No.47 of 2011 of Pedanandipadu Police Station, Guntur District. The offences alleged against the petitioners are under Sections 427, 506 r/w 34 IPC and Section 3(1)(x) of SC ST Act.

2. Heard the counsel for the petitioners and the Public Prosecutor appearing, for the 1st respondent. None appears for the 2nd respondent in spite of notice.

3. The 1st petitioner is the brother of one Tamshaiah, whose land was leased out to the de facto complainant. The 2nd petitioner is the father-in-law of the 1st petitioner's daughter. The 3rd petitioner is the son of the 2nd petitioner. The 4th petitioner is the husband of the 5th petitioner, who is the daughter of the 1st petitioner. The 6th petitioner is the brother-in-law of the 2nd petitioner.

4. The counsel for the petitioners submits that, as per the complaint, the land was leased out to the complainant by the brother of A1 and she has been cultivating the said land. She states that there are disputes between the brothers and considering the said disputes, her villagers destroyed the crop and got it ploughed with the tractor in the month of May, 2011.

She again states another instance, which occurred on 29.05.2011, where the accused came and abused her in caste name, but she did not choose to give any complaint with regard to the earlier instance which took place in the month of May, 2011, but with respect to the incident, which occurred on 29.05.2011, she chose to file a complaint, but not before 18.07.2011.

5. The counsel for the petitioners submits that there are disputes between Tamsaiah and his brother, who allegedly leased out the land to the complainant and that a partition suit was also filed in O.S.No.57 of 2011 on the file of the court of Principal Junior Civil Judge, Bapatla, and the same is pending and that his brother is wrecking out his vengeance by taking the aid of the fact of the complainant belonging to the Scheduled Caste and got the false complaint filed.

6. From the instances mentioned in the complaint itself, it can be understood that the complainant did not choose to make any complaint with regard to the earlier instance. The manner in which she roped in all the family members of A1, would also suggest that the case is a false case.

7. The counsel for the petitioners also relies on one lapse on the part of the complainant i.e., to mention that the accused were not members of the Scheduled Caste or the Scheduled Tribe. The counsel relies on a decision of the Supreme Court in

GORIGE PENTIAH v. STATE OF ANDHRA PRADESH¹

wherein the Supreme court held as para 6 as under:

“6. In the instant case, the allegation of respondent No.3 in the entire complaint is that on 27.5.2004, the appellant abused them with the name of their caste. According to the basic ingredients of [Section 3\(1\)\(x\)](#) of the Act, the complainant ought to have alleged that the accused-appellant was not a member of the Scheduled Caste or a Scheduled Tribe and he (respondent No.3) was intentionally insulted or intimidated by the accused with intent to humiliate in a place within public view. In the entire complaint, nowhere it is mentioned that the accused-appellant was not a member of the Scheduled Caste or a Scheduled Tribe and he intentionally insulted or intimidated with intent to humiliate respondent No. 3 in a place within public view. When the basic ingredients of the offence are missing in the complaint, then permitting such a complaint to continue and to compel the appellant to face the rigmarole of the criminal trial would be totally unjustified leading to abuse of process of law.”

8. The counsel contends that the complainant had nowhere in the complaint mentioned that the accused are not members of the Scheduled Caste or the Scheduled Tribe.

9. In the light of the above legal position, the Criminal Petition is allowed and the further proceedings against the petitioners in Crime No.47 of 2011 of Pedanandipadu Police Station, Guntur District, are hereby quashed.

¹ (2008) 12 SCC 531

As a sequel, the miscellaneous applications, if any pending,
shall stand closed.

T. RAJANI, J

September 5, 2018
LMV

