

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.10840 OF 2018

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Code'), is filed by the petitioners - accused Nos.5 to 12, to quash the proceedings against them in Crime/FIR No.118 of 2018, dated 16.08.2018, of Reddigudem Police Station, Krishna District, registered for the offences punishable under Sections 323 and 506 read with Section 34 of the Indian Penal Code, 1860 (for short 'IPC') and Sections 3 (1) (s) and 3 (1) (r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (for short 'Act, 2015').

2. The petitioners herein are arraigned as accused Nos.5 to 12 in the aforesaid Crime and respondent No.1 is the *de facto* complainant, who is a member of scheduled caste.

3. The *de facto* complainant lodged a Telugu written report with the police alleging that;

“i) During examinations period when the loudspeaker of the Church causing disturbance, he approached Bathula Paul Martin, Pastor of Holy Bethel Church in the village along with few others and requested him to reduce the sound of loudspeaker to avoid disturbance to the children, who are preparing for examination. Without heeding the request, the Pastor still maintained the same sound of the loudspeaker as usual causing disturbance to the children, who are preparing the examination, and to the villagers. Thereupon, the de facto complainant

made a representation to the Mandal Revenue Officer, Panchayat Secretary and the Mandal Development Officer against the said Pastor. Since then Bathula Paul Martin and his family members bore grudge against the petitioners and instigating the persons who are attending the Church to disturb the petitioners.

ii) On 05.08.2018 when the de facto complainant and others reached the Paul Martin Church, Bathula Paul Martin and his wife Bathula Ruthu, their sons John Wesley, Stephen Pagolu Rajani and sons Raju, Tulasi Rao and Jammi Shankar, Jammi Venkateswara Rao, Jammi Srirama Murthy, Kavuri Devasahayam and Kavuri Savithri and few others commented the de facto complainant and obstructed him, abusing him in filthy language while threatening to kill him.

iii) All the above persons attacked the de facto complainant while offering prayers in Bethel Church and they also abused him as 'madiga na kodaka' while questioning him why did he need the details of the Church and abused him with the caste name. Thus, the petitioners and others subjected the de facto complainant to humiliation and insulted in the public view and caused injuries on his body.

4. On the strength of the complaint, the police registered the aforesaid crime and issued First Information Report.”

5. At this stage, the petitioners herein, who are arraigned as accused Nos.5 to 12, approached this Court by filing the present Criminal Petition under Section 482 of the Code on the ground that the allegations made in the complaint do not constitute any offence and that the complaint was lodged as a counter-blast to the earlier dispute, which is subject matter of registration of Crime No.116 of 2018 against the *de facto* complainant and one Narendra Rao for the aforesaid offences, and

that lodging the present report is nothing but abuse of process of law, and requested to quash the proceedings against the petitioners.

6. During hearing, learned counsel for the petitioners, Sri Ancha Panduranga Rao, reiterated the contentions made in the petition, mainly stressing that lodging a report with the police after registration of a crime against respondent No.1 - *de facto* complainant and another is nothing but an abuse of process of law, even if the allegations made in the complaint under challenge are accepted on its face value, they would not constitute the aforesaid offences, and requested to quash the proceedings.

7. Learned Public Prosecutor for the State of Andhra Pradesh opposed the petition on the ground that the allegations made in the complaint lodged with the police are sufficient to constitute an offence, and in such case, when the investigation is not yet commenced, the Court cannot quash the proceedings against the petitioners at this stage, and requested to dismiss the petition.

8. As seen from the allegations made in the complaint lodged with the police referred supra, it disclosed that while the *de facto* complainant was offering prayers in the Bethel Church, the petitioners and others abused him with his caste name in the public view and the same would constitute the offences punishable under Sections 3 (1) (s) and 3 (1) (r) of the Act, 2015, and abusing the *de facto* complainant as

'*madiga na kodaka*' is nothing but insulting him as he is a member of the scheduled caste in the public view. Therefore, the allegations made in the complaint constitute the offences punishable under Sections 3 (1) (s) and 3 (1) (r) of the Act, 2015 *prima facie*.

9. Of course, the learned counsel for the petitioners contended that the petitioners are also members of the scheduled caste, but no piece of paper is produced before this Court to establish *prima facie* that they are also members of the scheduled caste. In the absence of any material, it is difficult to accept the said contention at this stage. However, the police are directed to obtain caste certificates of both, petitioners and the *de facto* complainant during investigation, and if any one of them belongs to the scheduled caste, the Investigating Agency may take appropriate steps in this regard deleting them in the array of the accused for the offences punishable under Sections 3 (1) (s) and 3 (1) (r) of the Act, 2015. All the more, concerning the allegations made in the complaint not only constitute an offence punishable under Section 323 IPC, but also under Section 506 IPC, and when the material allegations made in the complaint *prima facie* constitutes an offence, the Court would not normally exercise the power under Section 482 of the Code to quash the proceedings, and the High Court cannot stifle the legitimate prosecution when the facts are incomplete and hazy before the Court, more particularly, when the investigation is at foetus stage, in view of the law declared by the Hon'ble Supreme Court in **State of Orissa v.**

Saroj Kumar Sahoo¹.and Kurukshetra University v. State of Haryana².

10. Power of this Court under Section 482 of the Code can be exercised in rarest of rare cases, more particularly, when the allegations made in the complaint do not constitute an offence, and that when the prosecution is launched with a *mala fide* intention to wreak vengeance for settling personal scores, the Court can exercise such power. In the present case, there is absolutely nothing to establish that the complaint was lodged with a *mala fide* intention to wreak vengeance against the petitioners for settling his personal scores, even by applying the principles laid down by the Apex Court in **State of Haryana v. Bhajanlal³**, I find no ground to quash the proceedings at this stage. Consequently, the petition is liable to be dismissed.

11. Accordingly, the present Criminal Petition is dismissed at the admission stage itself.

As a sequel, Miscellaneous Petitions, if any, pending in the present Criminal Petition, stand closed.

M. SATYANARAYANA MURTHY, J

October 11, 2018

Mgr

¹ (2005)13 SCC 540 : 2006(2) ALT (Crl.) 16

² (1977) 4 SCC 451

³ 1992 Supp (1) SCC 335