

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.11296 of 2018

ORDER :

The 2nd respondent/de facto complainant served failed to attend.

2. Heard learned counsel for the petitioners/A.1 and A.2 and the learned Public Prosecutor, representing the State-1st respondent.

3. Impugning the cognizance taken by the Special Judge-cum-IV Additional Sessions Judge, Guntur, for trial of SC/ST(POA) Act cases in S.C.No.158 of 2018 on the final report of the police from completion of investigation in the form of charge sheet filed by saying accused liable to be charged for the offences under Section 509 read with 34 IPC and Section 3(1)(r)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (for short, the 'SC/ST Act'). The alleged occurrence from the report of the de facto complainant in registration of the Crime No.102 of 2018 originally for the offence punishable under Sections 509 read with 34 IPC, was dated 09.05.2018, and the alleged occurrence on 06.05.2018.

4. A perusal of the report of the *de facto* complainant including her statement as LW.1, so also of LWs.2 to 12, no way makes out the ingredients for the offence under Section 3(1)(r)(s) of SC/ST Act for no intentional insult in any public view. The altering of the F.I.R. pending investigation under Section 3(1)(r)(s) of SC/ST Act and filing of final report and taking of cognizance for the same, thereby no way sustainable.

5 So far as offence under Section 509 IPC, contended as not made out, even taken true on face value of the allegations even to attract the other offences under Section 3(2)(va) of SC/ST Act concerned, that is a matter to be decided with reference to the factual aspects as part of hearing before charges and left open before the trial Court to urge if necessary by filing petition under Section 227 Cr.P.C. The learned Sessions Judge to consider from the prosecution material any such offence made out, if not any other offence made out and if not triable by the Court, then made over under Section 228 Cr.P.C. to the Chief Judicial Magistrate concerned for trial by him or to transfer to any Judicial First Class Magistrate having jurisdiction.

6 With the above observations, the criminal petition is allowed in part.

Miscellaneous petitions pending, if any, in the criminal petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

26th November 2018.

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