

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

+ CRIMINAL PETITION No.11958 of 2018

% Dated 05.12.2018

Jinna Reddy Venkateswarlu

....Petitioner

VERSUS

\$ The State of Telangana, represented by its Public Prosecutor, High court of Judicature at Hyderabad for the State of Telangana and for the State of Andhra Pradesh and B.Saroja @ Chandavath Saroja

... Respondents

! Counsel for Petitioner : Sri A. Prabhakar Rao

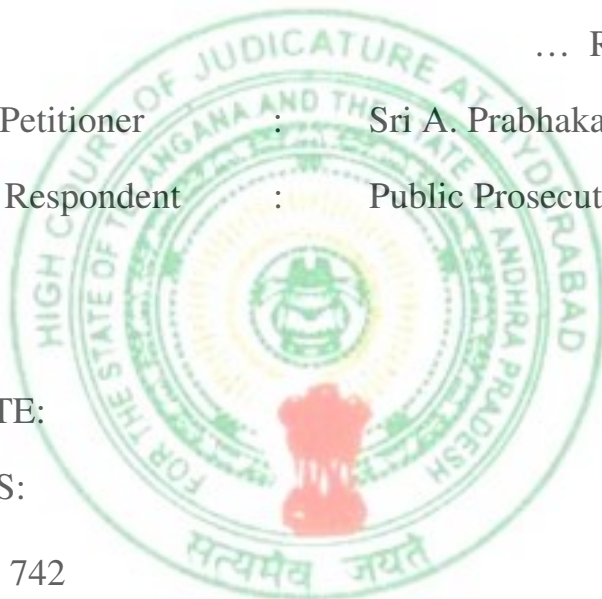
^ Counsel for Respondent : Public Prosecutor

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> HEAD NOTE:

? CITATIONS:

2018(1) SCC 742



HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO**CRIMINAL PETITION No.11958 of 2018****ORDER :**

The petitioner is sole accused of Crime No.333 of 2018 of S.H.O., Mahabubabad Town Police Station, registered for the offences punishable under Section 290 IPC and Sections 3(1)(r)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (for short, 'the Act'). The petitioner is seeking to quash the said crime proceedings in the present petition.

2. Notice served on the de facto complainant/2nd respondent, as per the track record, on 17.11.2018 and failed to appear. Service held sufficient, taken as heard.

3. Heard learned counsel for the petitioner and learned Public Prosecutor.

4. As per the expression of the Apex Court in **Asharfi v. State of Uttar Pradesh**¹, for a charge under Section 3(2)(v) after the Amended Act 1 of 2016, mere knowledge of accused that the person upon whom him the offence is committed belongs to SC or ST, suffice to bring home provided it is covered by the so-called offence as part of the schedule of the Act supra. It is also observed that prior to the amendment for requirement of punishment under Section 3(2)(v) of the SC/ST Act, intention must be there to attract the offence.

¹ 2018 (1) SCC 742

5. Here, in fact the crime registered is for Section 290 IPC offence and Section 3(1)(r) and (s) of the Special Act along with 3(2)(va) of the Special Act. Section 290 IPC offence is not covered by the schedule of the Special Act to attract Section 3(2)(va) of the Special Act. Thereby, to that extent the registration of the crime is unsustainable under Section 3(2)(va) of the Act.

6. So far as the offence under Section 290 IPC defined in 268 IPC, it must be a public nuisance. What it speaks is a person is guilty of a public nuisance provided he does any act or is guilty of an illegal omission, which causes any common injury, danger or annoyance to the public or to the people in general, who dwell or occupy property in the vicinity, or which must necessarily cause injury, objection, danger or annoyance to persons who may have occasion to use any such public right. It is not the case what all stated is he abused him in an insulting way touching the caste. There is no any public nuisance. Section 290 IPC prima facie has no application from the face reading of the F.I.R. No doubt, there is a public view from the presence of one Omji to attract the offence under Section 3(1)(r) and (s) of SC ST Amended Act supra. There is a force in the contention of the learned counsel for the petitioner, though learned Public Prosecutor submits it is not tenable of once there is a prima facie accusation from the F.I.R. is enough for not to quash the F.I.R., that there is a civil dispute in relation to the property under contract for sale for the past 20 years between the de facto complainant and the vendors of the accused and

on 12.10.2018 at about 2.30 p.m., the de facto complainant went to the M.R.O. Office, Mahabubabad, to take the pattadar passbook. He saw the accused there and went to the accused and shown one judgment copy in his favour and then what he uttered is mere judgment is not enough to claim the property as that of him and in that context used as Lambadi Lanja and from that it is whether casual without any intention is one of the contentions, that a matter to be required by investigation.

7. Having regard to the above, the criminal petition is disposed of with the above observations with a direction to police to investigate the crime and file the final report and pending investigation not to arrest the accused but for to secure his presence for purpose of investigation by written notice and in the event of service and failed to attend, follow strictly Section 41-A Cr.P.C.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

5th December 2018.

L.R. Copy to be marked – Yes.

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