

THE HONOURABLE Dr.JUSTICE B. SIVA SANKARA RAO

Writ Petition No.41269 of 2018

ORDER :

The petitioner is the A.1 in Cr.No.257 of 2018, dt.09.11.2018 of Eluru I town Police Station, West Godavari, for the alleged occurrence dt.25.10.2018 registered for the offences punishable u/ sec.420 and 506 read with 34 IPC and Section 3(1) @ (s) and 3(2(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act (for short, 'the Act') on the report of the defacto-complainant.

The sum and substance of the accusation in registration of the crime shows that the defacto-complainant earlier used to make his livelihood by doing hair business and now eaking out by doing some small deals with the help of his wife and three children and he used to give to his wife for safe custody the earnings out of business for business purpose and almost an amount of Rs.5,50,000/- was given to her in the past few days. Later when he verified and searched for the money, it was not traced and when he enquired his wife, it is learnt that the petitioner SVN Satish Kumar-the Police Constable 981 C/ BC working in II Town Police Station, Bheemavaram a neighbour and residing near to their house called his wife from his cell phone for about 1600 times and also by sending SMS by acquainting with her and that they have taken away his personal money supra from his house from playing deception without his consent and knowledge spent for their personal needs including in purchase of the motor vehicle made of Unicon bearing No. AP 37DM 3163 and also purchased some gold. His wife studied upto 5th class and by knowing her innocence, said Constable/ accused seduced and exploited her financially and also otherwise planned to do away him with conspiracy as part of their nefarious plan by colluding with his brother-in-law P.Nageshwara Rao and his wife-Sujatha and his mother-in-law-Munnemma by offering them half of the property and the same is learnt through audio conversation in deciding to kill him on 25.10.2018 and when questioned everything that was happened, the

accused Satish Kumar, in the presence of G.Srinivasarao and A.Bheemaraju at Hai Tea Centre abused him publicly as he belongs to a low caste person and further abused as '*Pora Madiga Lanjakodaka, Neevu nannu emi cheyalevu. Nenu Police Departmentlo Udyogam Chestunnanu. Ninnu Eppatikaina Champestanu Ieda Champinchestanu*' and he asked his wife and her relatives for which they also threatened as part of their conspiracy.

So far as attracting of the offence u/sec.3(1) @/(s) of the Act concerned, there is no any public view of any alleged intentional insult thereby the same has no application from very wording of the First Information Report on face value and to that extent the Writ Petition can be allowed striking out registration of crime u/ sec.3(1)@(s) of the Act. So far as the Section 3(2)(va) is concerned, from there is prima facie accusation for the alleged offences u/ sec.420 and 506 read with 34 IPC, it cannot be said that Section 3(2)(va) has no application.

Having regard to the above, for rest of the offences for which the crime is registered, there is nothing to quash but for to say none of the offences are punishable above 7 years, the police strictly to follow the Section 41-A of CrPC, and also the guidelines in Arnesh Kumar Vs. State of Bihar¹.

Accordingly and in the result with the above observations the Writ Petition is allowed in part. Miscellaneous petitions, if any, pending shall stand closed.

Dr. B.SIVA SANKARA RAO J,

Date:15.11.2018

Note: Issue copy forthwith.
b/ o.
vvr

¹ (2014) 8 SCC 273