

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.44055 OF 2017

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, to quash the proceedings in Crime No.147 of 2017 on the file of Pithapuram Rural Police Station, registered for the offence punishable under Section 3(1)(zc) of SC & ST (POA) Act.

The brief facts of the case are that, the defacto complainant/Mura Nookaraju is eking his livelihood by pulling bullock-cart. As there were disputes between the kapu caste people and the defacto complainant, the kapu caste community of Bhogapuram village had banned engagement of the defacto complainant's bullock-cart for transportation on the ground that he belongs to SC community and socially boycotted him. While the matter stood thus, when the defacto complainant was transporting paddy of one Chintala Ramakrishna Reddy of Raparthi village, which is adjacent to the village of Bhogapuram village, the petitioners herein approached Chintala Ramakrishna Reddy and directed him not to provide any work to the defacto complainant, engaging his bullock-cart as he is a member of mala by caste and threatened that they will untie bullocks near Ramalayam obstructing bullock cart, while permitting Chintala Ramakrishna Reddy to take bullock cart from their village i.e Bhogapuram. The petitioners also gave an assurance to Chintala Ramakrishna Reddy that, they would arrange bullock-carts whenever they are in need of it. Further, on coming to know about the incident from Chintala

Ramakrishna Reddy, the defacto complainant lodged a report with the police and on the strength of the report, the police registered Crime No.147 of 2017 against the petitioners, for the offences punishable under Section 3(1)(zc) of SC & ST (POA) Act.

The present writ petition is filed under Article 226 of the Constitution of India, on the ground that the earlier incident was not based on any atrocities of SC/ST, but it was in connection with Ganesh immersion and that, there were cases and counter cases between the two groups belonging to different castes. Apart from that, Chintala Ramakrishna Reddy addressed a letter to the Superintendent of Police, Kakinada informing that the petitioners never threatened him not to engage the bullock cart of the defacto complainant. On the basis of such statement, it is contended that there was no social boycott and thereby, the petitioners cannot be proceeded in Crime No.147 of 2017, for the offences punishable under Section 3(1)(zc) of SC & ST (POA) Act.

During hearing, learned counsel for the petitioners has drawn attention of this Court to various allegations made in the representations submitted to Superintendent of Police, Kakinada to contend that the petitioners never threatened Chintala Ramakrishna Reddy not to engage the bullock cart of defacto complainant, who belongs to Scheduled Caste, for transportation, and the genesis for the complaint is not the report submitted to the police about the Atrocities of SC/ST (POA) Act, but, it was in connection with Ganesh Immersion. Therefore, the allegations made in the complaint do not constitute an offence punishable

under Section 3(1)(zc) of SC & ST (POA) Act. Learned counsel for the petitioners has also drawn attention of this Court about passing an interim order in W.P.No.44055 of 2017 on 29.12.2017 and based on the interim order referred supra, learned counsel for the petitioners contended that the complaint is false and the petitioners committed no offence.

At the stage of admission, this Court passed an interim order in W.P.No.44055 of 2017 on 29.12.2017. When the matter is reached for final hearing, the observations made in the interim order passed without hearing respondent or Public Prosecutor do not bind the Court and those observations are limited for the purpose of passing interim order only. However, at this stage, this Court has to see whether the allegations made in the complaint constitute an offence punishable under any penal provisions.

Here, the offence allegedly committed by the petitioners is punishable under Section 3(1)(zc) of SC & ST (POA) Act. According to Section 3(1)(zc) of the Act, whoever, not being a member of a Scheduled Caste or a Scheduled Tribe imposes or threatens a social or economic boycott of any person or a family or a group belonging to a Scheduled Caste or a Scheduled Tribe shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.

The defacto complainant in this case is admittedly a member of Scheduled Caste, eking his livelihood by pulling bullock cart and his cart was engaged by one Chintala Ramakrishna Reddy of

Raparathi village, who gave a representation to Superintendent of Police, Kakinada. But, whether the letter addressed by Chintala Ramakrishna Reddy is true, is a question to be decided only after investigation. At this stage, based on the alleged representation made by Chintala Ramakrishna Reddy, the proceedings against these petitioners cannot be quashed. If, the allegations made in the complaint, if accepted on its face value constitutes an offence punishable under Section 3(1)(zc) of SC & ST (POA) Act, as engaging the bullock-cart of the defacto complainant by Chintala Ramakrishna Reddy, who is bound by villagers and even they allegedly threatened Chintala Ramakrishna Reddy not to engage the bullock-cart of the defacto complainant for transportation of paddy with a threat to stop transportation of the paddy of the defacto complainant's bullock-cart. These allegations are suffice to conclude that the petitioners *prima facie* committed an offence. Moreover, at the stage of F.I.R, this Court cannot record any finding as to what offence the petitioners have committed and this Court cannot exercise power under Section 226 of the Constitution of India to stifle the legitimate prosecution when the material is incomplete and hazy before the Court.

The power of this Court under Section 482 Cr.P.C is inherent and notwithstanding anything contained in the provisions of Cr.P.C be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under Cr.P.C, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

In **State of Haryana v. Bhajan Lal**¹ the Apex Court considered in detail the provisions of Section 482 and the power of the High Court to quash criminal proceedings or FIR. The Apex Court summarized the legal position by laying down the following guidelines to be followed by High Courts in exercise of their inherent powers to quash a criminal complaint:

- (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- (3) Where the allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non- cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

¹ 1992 Supp. (1) SCC 335

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

If, the principles laid down in the above judgment of the Apex Court are applied to the present facts of the case, there is absolutely no ground to quash the proceedings at this stage, that too, when the investigation is not yet completed, since the allegations made in the complaint, accepting on its face value would constitute an offence punishable under Section 3(1)(zc) of SC & ST (POA) Act.

Therefore, I find no ground to quash the proceedings against the petitioners in Crime No.147 of 2017 on the file of Pithapuram Rural Police Station, registered for the offence punishable under Section 3(1)(zc) of SC & ST (POA) Act.

In the result, writ petition is dismissed.

Consequently, miscellaneous applications pending if any, shall also stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:25.07.2018

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