

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.3329 of 2017

ORDER:

Heard the learned counsel for the petitioners and the learned Public Prosecutor appearing for the 2nd respondent State.

Though pursuant to the order dated 22.12.2017 the notice taken out on respondent No.1 by RPAD is served, as evident from memo/proof of service filed in the registry, none appeared for him.

The present revision case is filed challenging the orders dated 05.09.2017, whereby and whereunder the learned Judicial Magistrate of First Class, Peddapalli, has taken cognizance of the offence under Section 3 (1) (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "the Act") against the petitioners in Crl.M.P.No.268 of 2017 in Crime No.126 of 2017.

The facts in brief are that originally the 1st respondent herein filed a private complaint against the petitioners for the offence under Sections 427, 441, 447, 448, 452 and 506 (i) IPC and Section 3 (1) (x) of the Act. The basic allegation in the said complaint is that on 10.03.2016, the petitioners and their men illegally and criminally trespassed into the house of the 1st respondent and dismantled the bathroom, which was constructed by him. When the 1st respondent and his wife

tried to resist the illegal acts of demolition, they were threatened. The said complaint was referred to the concerned police under Section 156 (3) Cr.P.C. Pursuant thereto, a crime was registered vide FIR.No.126 of 2016 dated 14.05.2016 for the above said offences. After investigation, a charge sheet was filed under Section 173 Cr.P.C. In the charge sheet, the Investigating Officer referred the case as false, since no offence was made out. On filing of such report, the Court below issued notice to the 1st respondent, who, in turn, filed a protest petition in CrI.M.P.No.268 of 2017 stating that without examining him and the witnesses, charge sheet was filed referring the case as false. The learned Magistrate, after recording the statements of the 1st respondent and his wife, Smt. G. Kavitha, and one R. Laxminarayana and after perusing the sworn statements of the above said witnesses and since a *prima facie* case against the petitioners/accused for the above said offence is made out, taken cognizance of the offence on 05.09.2017. Aggrieved by the same, the present revision case is filed.

Learned counsel appearing for the petitioners would contend that the order passed by the learned Magistrate in taking cognizance of the offence under Section 190 (1) Cr.P.C., is erroneous in law, without jurisdiction and without any authority of law. The Special Courts constituted under Section 14 of the Act alone have been empowered to take cognizance of the offence with effect from 26.01.2016. The

order was passed on 05.09.2017 by the learned Magistrate taking cognizance of the offence is without jurisdiction and without any authority of law and it runs contrary to Section 14 of the Act.

Learned Public Prosecutor appearing for the 2nd respondent State, on instructions, submit that the learned Judicial Magistrate of First Class, Peddapalli, is not the Special Court constituted under Section 14 of the Act. Therefore, the learned Magistrate has no jurisdiction to take cognizance of the offence under Section 3 (1) (x) of the Act.

Having heard both the counsel and from a perusal of the material on record, it is revealed that the 1st respondent filed a private complaint against the petitioners for the offence under Sections 427, 441, 447, 448, 452 and 506 (i) IPC and Section 3 (1) (x) of the Act. The same was referred to the concerned police under Section 156 (3) Cr.P.C. Pursuant thereto, after registration of crime, investigation was conducted and a charge sheet was filed referring the case as false. However, on protest petition, after recording the sworn statements of the 1st respondent and other witnesses, the learned Magistrate by order dated 05.09.2017 taken cognizance of the above said offence against the petitioners. As far as the offence under Section 3 (1) (x) of the Act is concerned, by virtue of the amendment brought out to Section 14 of the Act, which came into effect from 26.01.2016, the Courts constituted and notified in the official

Gazette as the exclusive Special Courts alone shall have the jurisdiction to deal with the offence under the provisions of the Act. In fact, only those Courts, which are established or specified under the notification, shall have power to directly take cognizance of the offences under the Act. In the case on hand, the learned Judicial Magistrate of First Class, Peddapalli, is not the Special Court designated and notified to deal with the offences under the provisions of the Act. Therefore, the learned Magistrate does not have the jurisdiction to deal with and take cognizance of the offence under the provisions of the Act.

Accordingly, the criminal revision case is allowed, setting aside the order dated 05.09.2017 to the extent of taking cognizance of the offence under Section 3 (1) (x) of the Act against the petitioners.

Miscellaneous petitions, if any, shall stand closed.

P. KESHA RAO, J

Date: 10.12.2018.
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