

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 23.01.2019

Pronounced on : 30.01.2019

CORAM

THE HONOURABLE JUSTICE MR.N.ANAND VENKATESH

Crl.OP No.24410 of 2017

and

Crl.MP.Nos.14117 of 2017 & 1792 of 2018

Dr.A.Ganapathi ... Petitioner /Accused

Versus

1. The State of Tamil Nadu,
Rep. by its Sub Inspector of Police,
Vadavalli Police Station, Coimbatore.
... Respondent/Complainant

2. Dr. Lakshmi Praba ... Respondent / Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.PC to call for the records pertaining to impugned FIR dated 06.11.2017 registered against the petitioner in Crime No.349 of 2017, pending on the file of the 1st respondent and quash the same as illegal, arbitrary, abuse of process and without jurisdiction.

For Petitioner : Mr.A.Ramesh
Senior Counsel for
Mr.R.Veeramani

For Respondents : Mr.Mohammed Riyaz,
Additional Public Prosecutor
for R1
Mr.R.Sankarasubbu, for R2

ORDER

This is yet another case which has come up for consideration before this Court where on the one side, the

accused is claiming that Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, (hereinafter called as the Act), is being misused by giving a false complaint and on the other side, the victim claims that she has been subjected to economic boycott, social boycott and thereby, an atrocity has been committed against her, which is punishable under Section 3 of the Act.

2. The petitioner was working as the Vice Chancellor of Bharathiyar University. The Defacto Complainant is a Doctorate in Bio-Technology and she applied for the post of Assistant Professor in the Department of Bio-Technology at Bharathiyar University. According to the defacto complainant, this post was ear-marked for SC Arunthathiyar Women candidate. According to the 2nd respondent, she possessed all the qualifications for being appointed as the Assistant Professor in the Department of Bio-Technology. However, the University proceeded to appoint a Male SC Candidate, which according to the defacto complainant is against the recruitment rules.

3. The further grievance of the defacto complainant is that she was selected for the post of Dr.D.S.Kothari Post Doctoral Fellowship and this research fellowship tenure is for a period of five years and the defacto complainant would have earned fellowship amount of Rs.46,500/- + HRA per month. The Defacto Complainant had also submitted the verification proforma to the Registrar on 27.06.2017 through the mentor Dr.V.Balachander, Department of Human Genetic and Molecular Biology. Even the final selection list of Post Doctoral Fellowship for workmen (2017-2018) carried the name of the Defacto Complainant in Sl.No.23. However, the petitioner deliberately deprived the 2nd respondent of the fellowship by writing letters to University Grant Commission (UGC) to cancel the consideration of the name of the 2nd respondent. Due to this, the 2nd respondent was deprived of her fellowship and she was asked to change the institute and the Mentor. When this was questioned by the 2nd respondent, the petitioner as the Vice Chancellor did not even permit her to enter into the Section and directed the staffs not to give any answers to the 2nd respondent about the Fellowship. This according to the 2nd respondent amounts to economic boycott.

4. The further grievance of the 2nd respondent is that her husband was working as a Driver at Bharathiyar University and he was stripped of his job. Admittedly, the husband of the 2nd respondent belongs to backward community and he lost his job only because of the Inter-caste Marriage with the 2nd respondent. The 2nd respondent had also alleged in

the complaint that she was treated as a untouchable person and she was insulted within public view by the petitioner. Based on the complaint given by the 2nd respondent, respondent police registered an FIR against the petitioner for an offence under Sections 3(1) (za) (E), 3(1)(r), 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

5. Mr.A.Ramesh, learned Senior Counsel appearing on behalf of learned counsel for the petitioner, has made the following submissions :-

(a) Even if all the allegations made in the FIR are taken as it is, no offence has been made out against the petitioner under the Scheduled Caste and Scheduled Tribes Act.

(b) The entire incident is said to have taken place between June to August 2017 and the complaint itself came to be given only on 06.11.2017 and it has been registered on the same day even without a preliminary enquiry, more particularly, due to the fact that the petitioner was the Vice Chancellor of a respectable University and there was a delay in lodging the complaint.

(c) The petitioner was not selected to the post of Assistant Professor, since she did not possess the qualification and the person who possessed a higher qualification was selected for the post and he also belongs to the Scheduled Caste community. This selection is now a subject matter of challenge before this Court in WP No.8632 of 2017 and the same is pending.

(d) The 2nd respondent was not granted the Fellowship, since the University did not have an adequate laboratory for the Specialization which was sought for by the 2nd respondent and therefore, the 2nd respondent was asked to pursue with the Post Doctoral Fellowship in a different University. The same was also done to two other scholars, who wanted to pursue the same speciality and they were asked to pursue the Fellowship at Madras University.

(e) The husband of the 2nd respondent was dismissed from service for mis-conduct, after conducting a thorough enquiry.

(f) Even though, the 2nd respondent states in the complaint that the petitioner intentionally insulted the 2nd respondent within public view, there are absolutely no particulars regarding the date, time, place and the actual words that were used by the petitioner at the time of the alleged incident. The allegation is completely vague, even without basic

details. The learned Senior Counsel submitted that the Act has been misused by the 2nd respondent and an administrative decision is sought to be brought within the purview of this Act by making false allegations and the complaint is attended with malice.

(g) The learned Senior Counsel in order to substantiate his arguments relied upon the following judgements :-

- i. [Gorige Pentaiah Vs. State of Andhra Pradesh and others] reported in (2008) 12 SCC 531.
- ii. [Asmathunnisa Vs. State of Andhra Pradesh and another] reported in (2011) 11 SCC 259.
- iii. [Gayatri Vs. State and others] reported in Manu/DE/1823/2017
- iii. [N.V.Ramana Raju Vs. The State of Andhra Pradesh] reported in Manu/AP/0976/2014.
- iv. [Chandralekha and others Vs. State of Rajasthan and another] reported in (2013) 14 SCC 374.
- v. [State of Uttar Pradesh Vs. R.K.Srivastava] reported in (1989) 4 SCC 59
- vi. [Chunduru Siva Ram Krishna and another Vs. Peddi Ravindra Babu and another] reported in 2009 11 SCC 203.
- vii. [Santhanalakshmi and Others Vs. R.Janani] reported in Manu/TN/2450/2015.
- viii. [Dr.Subramanian Swamy Vs. C.Pushparaj] reported in 1998 SCC online Mad 67.
- ix. [Dr.Subhash Kashinath Mahajan Vs. State of Maharashtra and another] reported in (2018) 6 SCC 545.
- x. [R.Mohana Ranganathan Vs. The Inspector of Police, Kelambakkam Police Station, Kelambakkam and others] reported in 2011 (3) MWN (Cr.) 257.
- xi. [Dr.Onkar Chander Jagpal and another Vs. Union Territory, Chandigarh and another] reported in 2012(2) SCC 752.

6. The learned Additional Public Prosecutor appearing for the 1st respondent submitted that prior to the registration of this case on 16.10.2017, the Defacto Complainant and her husband lodged complaint against the accused person before the Superintendent of Police, Coimbatore and the same was forwarded to the Office of the Deputy Superintendent of Police on the same day. Inturn, the same was again forwarded to the

Inspector of Police on 19.10.2017. The Inspector of Police of Vadavalli Police Station conducted a preliminary enquiry and recorded the statement of the complainant and also enquired the Registrar of Bharathiyar University. Thereafter, the Inspector of Police sought for legal opinion on 04.11.2017 from the Special Public Prosecutor and got an opinion. In the meantime, this Defacto complainant lodged the present complaint before the Sub-Inspector of Police of the same police station and an FIR was registered in Crime No.349 of 2017 on 06.11.2017.

7. The learned Additional Public Prosecutor further submitted that the investigation is being made by the Deputy Superintendent of Police, Perur in line with Rule 7 of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1995. The learned counsel further submitted that the concerned Investigating Officer was not able to proceed further with the investigation in view of the quash petition filed by the petitioner and the stay granted by this Court for further investigation. The learned counsel submitted that a reading of the complaint makes out an offence under the SC & ST Act and therefore, this Court should not interfere with the investigation at this stage. The learned Additional Public Prosecutor also submitted the status report filed by the Deputy Superintendent of Police of Perur.

8. Mr.R.Sankarasubbu, learned Counsel appearing for the defacto complainant, made the following submissions :-

(a) The victim is a PH.D Doctorate in Bio-Technology and she has come up from a lower strata of the society by putting a lot of effort and reached this stage and she has been looked down upon as a untouchable and was also discriminated and insulted by the petitioner.

(b) The 2nd respondent has suffered social boycott and economic boycott in the hands of the petitioner and she has been subjected to atrocity by the petitioner and therefore, the police must be directed to proceed further with the investigation in order to find out the truth.

(c) The petitioner has rushed to this Court and has obtained an order of interim stay and thereby, he has successfully prevented any investigation in this case and therefore, this Court should not conduct a roving enquiry or conduct a mini investigation in exercise of its jurisdiction under Section 482 Cr.PC and the entire process of investigation must be left to the Deputy Superintendent of Police, Perur.

(d) There is no requirement for conducting a preliminary enquiry, since the allegations made in the complaint

makes out an offence under the Scheduled Caste and Scheduled Tribes Act.

(e) The petitioner is not a man of virtues and he was suspended from the post of Vice Chancellor after he committed an offence under the Prevention of Corruption Act and a person of that character should not be permitted to go scot-free after having committed an offence under the SC & ST Act.

(f) The learned counsel in order to substantiate his arguments, relied upon the following Judgements :-

- (i) [Arumugam Servai Vs. State of Tamil Nadu] reported in (2011) 3 SCC 422.
- (ii) [Emperor Vs. Khwaja Nazir Ahmad] reported in 1945 AIR (PC) 18.
- (iii) [Manju Devi Vs. Onkarjit Singh Ahluwalia @ Omkarjeet Singh] reported in 2017 (4) Crimes 311 (SC).
- (iv) [State of Karnataka Vs. Appa Balu Ingale and others] reported in 1995 Supp (4) SCC 469.

9. This Court has carefully considered the submissions made on either side and also the materials placed on record.

10. This Court is aware about the limitations placed, in exercise of its powers under Section 482 Cr.PC. When considering a petition seeking to quash the FIR, this Court is not excepted to conduct a roving enquiry or a mini investigation and this Court has to strictly go by the allegations made in the complaint and also the materials placed before the Court, which is of sterling quality and over which, none of the parties have any dispute.

11. The pith and substance of the complaint given by the 2nd respondent can be compartmentalized into three segments :-

(a) Non-selection of the defacto complainant for the post of Assistant Professor in the Department of Bio-Technology in Bharatiyar University.

(b) Denying the Post Doctoral Fellowship by not recommending to the UGC and thereby, depriving the 2nd respondent of the fellowship amount every month. Preventing the defacto complainant from entering into the University and directed the staffs not to provide any information to the defacto complainant and insulting the defacto complainant within public view and thereby, committing an atrocity punishable under the Act.

(c) Removing the husband of the 2nd respondent from the employment of the University.

12. As rightly argued by Mr.R.Sankara Subbu, the learned counsel appearing for the 2nd respondent, even now this society is infested with the impregnable walls of separation with graded inequalities on the ground of caste. This deeply ingrained malice continues to daunt this society and there is discrimination continuing in the name of caste. Therefore, while dealing with cases of this nature, this Court must keep in mind the caution given by the Hon'ble Supreme Court in [State of Karnataka Vs. Appa Balu Ingale and others] reported in 1995 Supp (4) SCC 469, wherein the Hon'ble Supreme Court held as follows :-

34. Judiciary acts as a bastion of the freedom and of the rights of the people. Jawaharlal Nehru, the Architect of Modern India as early as in 1944 stated that the spirit of the age is in favour of equality though the practice denies it almost everywhere, yet the spirit of the age triumphs. The judge must be atone with the spirit of his/her times. Power of judicial review, a constituent power has, therefore, been conferred upon the judiciary which constitutes one of the most important and potent weapons to protect the citizens against violation of social, legal or constitutional rights. The judges are participants in the living stream of national life, steering the law between the dangers of rigidity on the one hand and formlessness on the other hand in the seamless web of life. The great tides and currents which engulf the rest of the men do not turn aside in their course and pass the judges idly by. Law should subserve social purpose. Judge must be a jurist endowing with the legislator's wisdom, historian's search for truth, prophet's vision, capacity to respond to the needs of the present, resilience to cope with the demands of the future and to decide objectively disengaging himself/herself from every personal influence or predilections. Therefore, the Judges would adopt purposive interpretation of the dynamic concepts of the Constitution and the Act with its interpretative armoury to articulate the felt necessities of the time. The Judge must also bear in mind that social legislation is not a document for fastidious dialects but means of ordering in the life of the people. To construe law one must enter into its spirit, its setting and history. Law should be capable of expanding freedoms of the people and the legal order can, weighed with utmost equal care, be made to

provide the underpinning of the highly inequitable social order. The power of judicial review must, therefore, be exercised with insight into social values to supplement the changing social needs. The existing social inequalities or imbalances are to be removed and social order readjusted through rule of law, lest the force of violent cult gain ugly triumph. Judges are summoned to the duty of shaping the progress of the law to consolidate society and grant access to the Dalits and Tribes to public means or places dedicated to public use or places of amenities open to public etc. The law which is the resultant product is not found but made. Public policy of law, as determined by new conditions, would enable the courts to recast the changing conceptions of social values of yester years yielding place to the changed conditions and environment to the common good. The courts are to search for light from among the social elements of every kind that are the living forces behind the factors they deal with. By judicial review, the glorious contents and the trite realisation in the constitutional words of width must be made vocal and audible giving them continuity of life, expression and force when they might otherwise be forgotten or ignored in the heat of moment or under sway of passions of emotion remain aroused, that the rational faculties get befogged and the people are addicted to take immediate for eternal, the transitory for the permanent and the ephemeral for the timeless. It is in such surging situation the presence and consciousness and the restraining external force by judicial review ensures stability and progress of the Society. Judiciary does not forsake the ideals enshrined in the constitution, but make them meaningful and make the people realise and enjoy the rights.

35. The Judges, therefore, should respond to the human situations to meet the felt necessities of the time and social needs, make meaningful the right to life and give effect to the Constitution and the will of the Legislature. This court as the vehicle of transforming the nation's life should respond to the nation's needs and to interpret the law with pragmatism to further public welfare to make the constitutional animations a reality. Common sense is always served in the court's ceaseless striving as a voice of reason to maintain the blend of change and continuity of order which is sine quo non for stability in the process of change in a parliamentary

democracy. In interpreting the Act, the judge should be cognizant to and always keep at the back of his/her mind the constitutional goals and the purpose of the Act and interpret the provisions of the Act in the light thus shed to annihilate untouchability; to accord to the Dalits and the Tribes right to equality, social integration a fruition and make fraternity a reality.

36. The thrust of Article 17 and the Act is to liberate the society from blind and ritualistic adherence and traditional beliefs which lost all legal or moral base. It seeks to establish new ideal for society - equality to the Dalits, at par with general public, absence of disabilities, restrictions or prohibitions on grounds of caste or religion, availability of opportunities and a sense of being a participant in the main stream of national life.

37. While the court, therefore, is to adopt the psychological approach, reasonable doubt does not mean the mind of a doubting Thomas, nor vacillation, nor pusillanimity, nor deep seated prejudices or predilections covertly found in other walks of life. The application of the test of a reasonable man acting in similar circumstances and reasonable doubt of a reasonable man is the rule.

13. It is clear from the above judgment that Judges must respond to the human situation to meet the felt necessities of the time and the social needs and interpret the provisions of the Act to accord to the Dalits and the tribes, right to equality and prevent the atrocities committed against them.

14. It must also be kept in mind that this Act should not be permitted to be put to misuse by trying to give a skewed meaning for every administrative decision taken by the authority or an employer. The crime against the member of the oppressed society is heinous and should not be tolerated. But at the same time, such member of the society cannot use it as a weapon to wreak vengeance. If such tendency is encouraged, it will defeat the very object of the Act and will ultimately have a huge impact by weakening even the genuine cases of the prosecution.

15. In this case, an FIR has been registered for an offence under Sections 3(1) (za) (E), 3(1)(r), 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 . The provisions can be dissected as under :-

(*Refer Annexure)

16. The first allegation made against the petitioner with regard to non-selection of the defacto complainant to the post of Assistant Professor, by no stretch will amount to an offence for two reasons :-

- The first reason is that the post was ultimately allotted to a candidate belonging to the SC Community and the 2nd reason is that this selection is already a subject matter of challenge before this Court in WP No.8632 of 2017. Therefore, it will not fall within any of the above said three provisions of the Act.

17. Insofar as the 2nd allegation is concerned, the 2nd respondent complains that she has been denied the Post Doctoral Fellowship inspite of the name of the petitioner being recommended through her mentor Dr.V.Balachander. By denying the fellowship, the 2nd respondent alleges that she has been deprived of the monthly fellowship amount. This according to the learned counsel for the 2nd respondent amounts to economic boycott. This allegation is also sought to be made as an offence on the ground that the 2nd respondent was not permitted to enquire about the same in the concerned office and the staffs were directed not to respond to the queries of the 2nd respondent and the petitioner when questioned had insulted the 2nd respondent within public view. This according to the 2nd respondent amounts to an offence under Section 3(1) (r) of the Act.

18. The selection of the 2nd respondent for the fellowship is purely an administrative decision, taken in accordance with the prevailing rules and also the facilities available with the university. The 2nd respondent was not provided with the fellowship since the speciality that was sought for by the 2nd respondent for the fellowship could not be done at the Bharathiyar University, in view of the non availability of adequate laboratory facilities. The 2nd respondent was advised to pursue with the fellowship in a University, which had the facility. Till this juncture, there is no offence made out. However, this is further developed by the 2nd respondent by alleging that she was deprived of getting in touch with the office and the staffs of the university and she was insulted in public view by the petitioner.

19. The Defacto Complainant is an educated women who has completed PH.D. She has given a detailed complaint and she is capable of clearly explaining things. Therefore, the minimum that was required to be stated in the complaint is the date, time, place where she was insulted and the words that were used against her by the petitioner. The complaint is completely bereft of these details and there is a vague allegation that the

petitioner insulted the 2nd respondent in public view. These allegations do not make out an offence under Section 3(1) (r) of the Act. In order to apply this provision, it must be supported with some minimum facts. It will be useful to rely upon the following judgments of the Hon'ble Supreme Court.

i. [Gorige Pentaiah Vs. State of Andhra Pradesh and others] reported in (2008) 12 SCC 531 dealt with the scope of the above said provision. The relevant portions in the judgment are extracted hereunder:

"5. Learned counsel appearing for the appellant submitted that even if all the allegations incorporated in the complaint are taken as true, even then, no offence is made out under Section 3(1)(x) of the Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "the Act") and under Sections 447, 427, 506 of the Indian Penal Code, 1860. As far as Section 3(1)(x) of the Act is concerned, it reads as under:

"3(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe:-

(i)-(ix)

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view."

6. In the instant case, the allegation of respondent No.3 in the entire complaint is that on 27.5.2004, the appellant abused them with the name of their caste. According to the basic ingredients of Section 3(1)(x) of the Act, the complainant ought to have alleged that the accused-appellant was not a member of the Scheduled Caste or a Scheduled Tribe and he (respondent No. 3) was intentionally insulted or intimidated by the accused with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in a place within public view. In the entire complaint, nowhere it is mentioned that the accused-appellant was not a member of the Scheduled Caste or a Scheduled Tribe and he intentionally insulted or intimidated with intent to humiliate respondent No. 3 in a place within public view. When the basic ingredients of the offence are missing in the complaint, then permitting such a complaint to continue and to

compel the appellant to face the rigmarole of the criminal trial would be totally unjustified leading to abuse of process of law".

ii. [Asmathunnisa Vs. State of Andhra Pradesh and another] reported in (2011) 11 SCC 259. The relevant portions in the judgment are extracted hereunder:

2. The appellant is the Headmistress in the Little Star School located at Gayatri Hills, Yousufguda, Hyderabad has preferred this appeal against the impugned judgment and order passed by the High Court of Judicature of Andhra Pradesh at Hyderabad in Criminal Petition No.2127 of 2006.

3. It may be pertinent to mention that her husband Mohd.

8. In this connection, learned counsel for the appellant has placed reliance on a judgment of the Kerala High Court in E.

Krishnan Nayanar v. Dr. M.A. Kuttappan & Others 1997 CrL. L.J. 2036. The relevant paragraphs of this judgment are paras 12, 13 and 18. The said paragraphs read as under:

"12. A reading of Section 3 shows that two kinds of insults against the member of Scheduled Castes or Scheduled Tribes are made punishable - one as defined under sub-section (ii) and the other as defined under sub-section (x) of the said section. A combined reading of the two sub-sections shows that under section (ii) insult can be caused to a member of the Scheduled Castes or Scheduled Tribes by dumping excreta, waste matter, carcasses or any other obnoxious substance in his premises or neighbourhood, and to cause such insult, the dumping of excreta etc. need not necessarily be done in the presence of the person insulted and whereas under sub-section (x) insult can be caused to the person insulted only if he is present in view of the expression "in any place within public view". The words "within public view", in my opinion, are referable only to the person insulted and not to the person who insulted him as the said expression is conspicuously absent in sub-section (ii) of Section 3 of Act 3/1989. By avoiding to use the expression "within public

view" in sub-section (ii), the Legislature, I feel, has created two different kinds of offences an insult caused to a member of the Scheduled Castes or Scheduled Tribes, even in his absence, by dumping excreta etc. in his premises or neighbourhood and an insult by words caused to a member of the Scheduled Castes or Scheduled Tribes "within public view" which means at the time of the alleged insult the person insulted must be present as the expression "within public view" indicates or otherwise the Legislature would have avoided the use of the said expression which it avoided in sub-section (ii) or would have used the expression "in any public place".

13. Insult contemplated under sub-section (ii) is different from the insult contemplated under sub-section (x) as in the former a member of the Scheduled Castes or Scheduled Tribes gets insulted by the physical act and whereas in the latter he gets insulted in public view by the words uttered by the wrongdoer for which he must be present at the place.

18. As stated by me earlier the words used in sub-section (x) are not "in public place", but "within public view" which means the public must view the person being insulted for which he must be present and no offence on the allegations under the said section gets attracted. In my view, the entire allegations contained in the complaint even if taken to be true do not make out any offence against the petitioner".

9. The aforesaid paragraphs clearly mean that the words used are "in any place but within public view", which means that the public must view the person being insulted for which he must be present and no offence on the allegations under the said section gets attracted if the person is not present.

11. The Learned counsel for the appellant has also drawn our attention to a judgment of this Court *Gorige Pentaiah v. State of Andhra Pradesh & Others*. The relevant paragraph of this judgment is as

under: (SCC p.534, para6)

"6. .. According to the basic ingredients of Section 3(1)(x) of the Act, the complainant ought to have alleged that the appellant-accused was not a member of the Scheduled Caste or a Scheduled Tribe and he (Respondent 3) was intentionally insulted or intimidated by the accused with intent to humiliate in a place within public view. In the entire complaint, nowhere it is mentioned that the appellant-accused was not a member of the Scheduled Caste or a Scheduled Tribe and he intentionally insulted or intimidated with intent to humiliate Respondent 3 in a place within public view. When the basic ingredients of the offence are missing in the complaint, then permitting such a complaint to continue and to compel the appellant to face the rigmarole of the criminal trial would be totally unjustified leading to abuse of process of law.

26. When we apply the ratio of the settled principles of law to the facts of this case, then, in our considered opinion, the High Court ought to have exercised its jurisdiction under section 482 of the Code of Criminal Procedure and quashed the complaint qua the appellant only to prevent abuse of the process of law.

20. The above referred judgements of the Hon'ble Supreme Court would clearly state that the complainant ought to have alleged that the accused person is not the member of a Scheduled caste or a Scheduled Tribe and he intentionally insulted or intimidated the accused person to humiliate him in his caste name, in a place within public view. The fundamental ingredient is that the public must view the person being insulted and if there is no such averment in the complaint, then the provisions of Section 3(1) (r) will not be attracted.

21. Section 3(1) (r) will not be attracted. Except for the bald allegations, no overt act or specific role is attributed to the petitioner by the complainant in the FIR. The essential / basic ingredient of the offence is completely lacking in the complaint, which formed the basis of the FIR. Therefore, no offence has been made out under Section 3(1) (r) of the Act.

22. Insofar as the 3rd allegation is concerned, the same pertains to the removal of the husband of the 2nd respondent from the job. The husband of the 2nd respondent was removed in view of the misconduct and it will be too remote to connect it with the Scheduled Caste status of the 2nd respondent. The husband of the 2nd respondent losing the job and thereby, being deprived of the salary or the 2nd respondent being deprived of the monthly stipend for the fellowship, by itself cannot be considered to be an economic boycott against the 2nd respondent.

23. In order to attract the provisions of Section 3 (1) (za) (E) of the Act, the 2nd respondent was not obstructed or prevented from practicing any profession or carry on any occupation or employment, only based on her caste and it was only based on a decision taken in accordance with the prevailing rules and the facility available in the University. To really make it an offence, will be too far fetched.

24. The offence under Section 3(2) (va) of the Act is also not made out against the petitioner. None of the offences under the IPC that has been appended to the Schedule of the Act gets attracted to the facts of the present case.

25. The character of the petitioner which has been spoken much by the learned counsel appearing for the 2nd respondent is irrelevant for the purpose of the present case. In order to decide whether an offence has been made out in a given set of facts, the character of the accused person is not a determining factor.

26. This Court is of the considered view that the 2nd respondent has virtually attempted to ventilate her grievance regarding her employment and Post Doctoral Fellowship, by using (rather misusing) the Act. The Act cannot be converted into a Charter for exploitation or oppression by any unscrupulous person or by police for extraneous reasons against other citizens. Any harassment of a citizen by using this Act, is against the guarantee given by the Constitution. If such false complaints are entertained, instead of blurring caste lines, it will only promote caste hatred. Such false complaints unfortunately may even perpetuate casteism. The legislature never intended to use this Act as an instrument to blackmail or to wreak personal vengeance against innocent citizens. This sensitization has to be necessarily understood by the prosecuting agencies.

27. This Court is completely aware about the prevailing discrimination that continues against persons belonging to SC & ST Community, more particularly, in the rural

villages. There are vested interest who wants this caste system to continue for their own selfish interest. It is unpalatable to mention but yet it is a painful reality that the entire system in the State is operating in the lines of caste. Even candidates are selected during elections based on the majority caste to which he belongs in the particular locality. This caste gene, if it can be so coined, is deeply entrenched in people, particularly in villages. Unless, this gene is completely effaced, this major problem is bound to continue.

28. This Court does not want this Act to be one more reason for perpetuating casteism and let this Act be used to handle genuine cases of atrocities committed against SC & ST.

29. The allegations made in the FIR, even if it is taken on their face value and accepted in its entirety, do not constitute an offence or make out a case against the accused. In the considered view of this Court, the case on hand is one such case where criminal proceedings is manifestly tainted with malafides and this Court has to necessarily interfere with the same.

30. In the result, the FIR in Crime No.349 of 2017 on the file of the 1st respondent is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

rka

To

1. Sub Inspector of Police,
The State of Tamil Nadu,
Vadavalli Police Station, Coimbatore.

2. The Public Prosecutor,
High Court of Madras

+lcc to Mr.R.Veeramani, Advocate, S.R.No. 7278

Crl.OP No.24410 of 2017
and Crl.MP.Nos.14117 of 2017 & 1792 of 2018

GJ(CO)
GN(26/03/2019)