

THE HONOURABLE SRI JUSTICE P. KESHAVA RAO

WRIT PETITION No.31682 of 2014

ORDER:

Heard learned counsel for the petitioner as well as learned Government Pleader appearing for the respondents 1 to 5.

2. The prayer sought in the writ petition is as under:-

“...to issue any writ, order or direction more particularly one in the nature of Writ of Mandamus or any other appropriate writ or order, call for the records and to declare the action of the respondents in not initiating any action against the respondents No.6 and 7 is highly illegal, arbitrary and violation of Article 14 and 21 of the Constitution of India and consequently direct the respondents to initiate action against the respondents No.6 and 7 and pass such other and further orders as the Hon’ble Court may deem fit and proper in the circumstances of the case.”

3. The 4th respondent filed a counter-affidavit denying the allegations made in the affidavit filed in support of the writ petition and contended *inter alia* that pursuant to the complaint lodged by the petitioner, a case in Crime No.247 of 2014 for the offences under Sections 447 and 324 read with 34 IPC and Section 3(1)(x) of the Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 (for short, ‘the Act’), was registered. Subsequent to registration of the crime, it was entrusted to the Deputy Superintendent of Police, Suryapet, Nalgonda District, i.e, the deponent of the counter-affidavit, vide proceedings C.No.168/C1/2014, dated 21.09.2014. During the course of investigation, the Investigating Officer examined LWs.1 to 10 and recorded their detailed statements in Part-II case diary and conducted scene of offence panchanama in the presence of two mediators duly drafting rough sketch and addressed letter to the

Tahasildar, Kodad Mandal, for issuing caste certificate. Pursuant to the letter addressed by the Investigating Officer, the Tahasildar, Kodad, issued caste certificates and certified that the complainant and victim belong to Madiga caste, which is notified as schedule caste (S.C.) at Sl.No.32 and accused No.1-K.Krishaniah, A.2-K.Rajiv, A.3-K.Chander Rao, A.4-K.Kiran and A.5-K.Sunitha belong to Mudiraj caste, which is notified as backward caste (BC.D) at Sl.No.19. Dr.N.Rajani, Civil Assistant Surgeon, Community Health Centre, Kodad, who treated the injured-LWs.1 and 2 issued medical certificates and opined that LW.1 sustained injuries, which are simple and grievous in nature, and LW.2 sustained simple injuries. On 26.09.2014, the Investigating Officer served a notice under Section 41(A)(1) Cr.P.C to accused Nos.1 to 3 informing them that there are reasonable grounds to question them to ascertain facts and circumstances of the case. Accused Nos.1 to 3 could not produce any evidence to prove their innocence on the allegations made by the complainant and a *prima facie* case was made out for the offences under Sections 447 and 324 read with 34 IPC and Section 3(1)(x) of the Act. It is also further stated that the said accused failed to produce any evidence to prove their innocence. On 27.09.2014, the Investigating Officer arrested A.1 to A.3 and recorded their confessional statement in the presence of two panchas and seized an iron rod from the possession and at the instance of accused No.3 and a spade at the instance of accused No.2 under the cover of confession and seizure panchanama and sent them to judicial custody. After

completion of investigation, on 22.10.2014, the Investigating Officer i.e., Deputy Superintendent of Police, prepared draft charge sheet against accused Nos.1 to 3 for the offences under Sections 447, 324 and 326 read with 34 IPC and Section 3(1)(x) of the Act and submitted to the Superintendent of Police, Nalgonda, to accord permission to mention the names of accused Nos.4 and 5 in column No.13 as there is evidence to prove guilty against them. It is mentioned in the written instructions, dated 20.12.2019, that after completion of investigation, a charge was filed on 18.11.2014 and the same was taken on record as P.R.C.No.80 of 2014 on the file of the Judicial First Class Magistrate, Kodad. The same was re-numbered as P.R.C.No.12 of 2017. It is further mentioned that the case is for committal to the Sessions Court.

4. Though a counter-affidavit is filed in detail, to rebut the said contentions raised therein, no reply affidavit is filed. Therefore, the contentions raised in the counter-affidavit goes un-rebutted and binding on the petitioner.

5. In that view of the matter, this Court is of the opinion that no further cause would survive in the writ petition and the same is liable to be closed.

6. Accordingly, the writ petition is closed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

P. KESHA VA RAO, J

31st December 2019

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