

THE HON'BLE DR. JUSTICE B.SI VA SANKARA RAO

Crl.P.No.8830 of 2014

ORDER:

Petitioners 1 to 4 herein namely, D.Gopala Krishna Rao, D.Usha Rani, D.Ravi Kiran and D.Rajeshwari are Accused 1 to 4 and 2nd respondent is the defacto-complainant in P.R.C.No.49 of 2013 on the file of III Additional Chief Metropolitan Magistrate, Nampally, Hyderabad.

2. PRC proceedings are outcome of police final report/charge sheet filed by the Assistant Commissioner of Police, Panjagutta, Hyderabad, which is outcome of Crime No.313 of 2011 dated 9.4.2011 registered by the Station House Officer, S.R. Nagar Police for the offences punishable under Sections 3(1)(x) of SCs/STs (POA) Act (for short 'the Act') and Section of 323 IPC. The registration of crime of the defacto-complainant dated 9.4.2011 reads that she is the wife of one Nageshwar Rao, doing hospital business at H.No.137/C, Sanjeeva Reddy Nagar, Hyderabad, which was taken on rent by paying rent of Rs.39,000/- per month to the house owner and she also paid advance amount at the time of entering lease. While continuing as tenant after two months from the commencement of lease, the house owner having come to know that she belongs to SC community, started demanding to vacate the premises and as she incurred by then amounts for purchase of cots and other expenditure for running the hostel, she did not choose to vacate and therefore, the house owner bore grudge against her and all the Accused (A1-house owner, A2 is wife of A1, A3 is son of A1 and A2 and A4 is the wife of A3) committed atrocity and bet her and abused touching her caste as Mala by using the words "Mala Lanja" and she was necked out. It is further mentioned that she was not allowed to collect her belongings viz. cloths, bags, computer and gold ear rings and cash of Rs.4,000/- which were

in the almirah and also refused to return the advance amount of Rs.1,17,000/- paid by her and she was threatened to see her end.

3. In the F.I.R., she did not mention when the alleged occurrence taken place and whether there is any public view and anybody present at that time, much less, witnessed the same, in the absence of which, the question of registering the crime under Section 3(1)(x) of the Act does not arise for the offence attracts only when the atrocity is committed by abuse and beating in public view, that is lacking from the description. Further, there is no date or time of occurrence mentioned even. It is mentioned in the F.I.R. that lease commenced in the month of December, 2010 and the report was lodged on 9.4.2011 and what she averred is that two months after commencement of lease, having coming to know that the defacto complainant belongs to SC community, A1-owner of the house was demanding to vacate and on her refusal, all the Accused attacked. Even taken from the face value, it is immediately after two months from commencement of lease in December 2010, at best in January or February 2011, whereas the report was given only on 9.4.2011 with no explanation even for the delay. So far as the statement offered during investigation after registration of crime is concerned, she stated that she occupied the rented premises on 9.12.2010 and running Women's hostel with name and style "Devi Sree" and she has to pay rent by 10th of every month for the previous month and she could not pay the rent for the first month and on 11.1.2011, the house owner Gopalakrishna (A1) along with his daughter-in-law (A4) came to her room in the ground floor and asked for rent and when she requested some time, they started abusing with her caste name as "Mala Lanjadana" etc., and it is stated that at that time there was no body in the hostel as all women gone for Pongal vacation. If that is the case, that occurrence on 11.1.2011 by A1

and A4 was different to the present occurrence and for that there is no report given by her and there is no whisper in her report supra, but for facts in the statement and that too there is no public view for the alleged abuse admittedly from the statement supra. Now she further stated that again on 5.2.2011 at about 8 p.m., house owner, his wife and daughter-in-law (A1, A3 and A4) came to her portion and threatened to vacate and necked her out and on that day, she went to local police S.R. Nagar and complained against them and they were required to attend the Police Station and S.I. Govind Reddy enquired and counselled them and she informed the S.I. that she spent nearly Rs.3,00,000/- and house owner within one month asked her to vacate, but the S.I. insisted to vacate by 9.2.2011, even she wanted time of one month and after return to her house and it was all of a sudden on 8.2.2011, the house owner along with others supra came and abused her touching the caste "Mala Lanjadana" etc., and she approached the Civil Court and filed suit for injunction in O.S.No.254 of 2011 and obtained temporary injunction in I.A.No.46 of 2011 and on knowing the same, the house owner along with others supra on 11.2.2011 at 5 p.m. attacked her by pushing her and abused her, touching her caste as "Mala Lanjadana" at the entry gate of the house. Immediately she went to S.R. Nagar Police Station and orally complained to S.I. Govind Reddy and the S.I. stated that the matter is civil in nature. It is added that one Shiva witnessed, but no full description was given. Even in the F.I.R. she did not mention about the presence of any person by name Shiva and whether he is independent person or is a worker under her or related to her, much less full name, surname, or father's name or address as to which Shiva, out of several Shivas, if any.

4. Notice sent to defacto-complainant thrice returned unserved is a sufficient service. Heard the learned counsel for the petitioner and the Public Prosecutor representing the State and perused the material on record.

5. Even from the statement of defacto-complainant, the alleged occurrence taken place on 11.2.2011 at 5 p.m. in the presence of alleged Shiva, whereas the report given is on 9.4.2011, nearly two months after the alleged occurrence with no explanation for delay and in the F.I.R. no mention of any persons presence and witnessed to say any occurrence in public view, suffice to say none of the ingredients of Section 3(1)(x) of the Act applies and no credence can be given to the introduction of an unknown, vague name of one Shiva as present and even regarding any alleged manhandling or beating. It is not her case that she sustained injuries or went to hospital and there is no explanation for making complaint after two months of occurrence, which clearly shows the civil dispute from the injunction order obtained, she further to trouble the owner, engineered the allegations, leave the fact of the already vacated undisputedly from what is submitted across the bar during the course of arguments, it is suffice to say that none of the ingredients of the offences would attract even from the police investigation supra, with no where among the witnesses cited even referred any person by name Shiva and he referred only one K.Yashoda W/o Nageshwar Rao, as if eyewitness, a Tea Stall vendor on a pushcart on the road, that is not their either in her statement or in the F.I.R. and there is another eyewitness the alleged Supervisor in Reliance Fresh by name Y.Shiva Shankar S/o Sambasiva Rao, whose residential address is at Khairtabad and working at Reliance Fresh at S.R. Nagar, is not even a case of Reliance Fresh Supervisor available at the time of occurrence and for what reason, there is no Reliance Fresh

Shop even in the premises, much less, abutting, from the investigation material.

6. Having regard to the above and in the result, to sub-serve the ends of justice and to prevent abuse of process, the petition can be allowed and accordingly allowed, quashing the proceedings pending against the petitioners (A1 to A4) in P.R.C.No.498 of 2013. As a sequel, the miscellaneous petitions if any, shall stand closed. There shall be no order as to costs.

Date: 18.3.2019
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Dr.SSRB,J





THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO



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18.3.2019

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