

THE HON'BLE JUSTICE G.SRI DEVI

Criminal Petition No.8032 of 2019

ORDER:

This criminal petition is filed by the petitioners/A1 to A3 under Section 482 of Cr.P.C., seeking to quash the proceedings in Cr.No.426 of 2019 on the file of Sircilla Police Station, Rajanna Sircilla District, registered for the offences under Sections 147, 341, 307 read with Section 149 IPC and under Section 3(1)(r)(s) and 3(2)(va) of SCs and STs (POA) Amendment Act, 2015, against them.

2. Heard learned counsel for the petitioners/A1 to A3; learned Additional Public Prosecutor for the 2nd respondent-State and perused the record.

3. It is alleged in the complaint that the de-facto complainant and her husband were working as Teachers in Siddartha English Medium High School, Sircilla, and one week prior to the date of incident, a girl student, namely, Kodam Varsha, who is studying 10th Class in the said school, sent their marriage day wishes and other messages to the mobile of her husband without his knowledge, and in this regard, they informed the matter to the School correspondent, namely Nagula Santhosh Goud, who summoned the parents of said girl and informed them. While so, on 02.12.2019, the father of said girl i.e., A1, invited the husband of the de-facto complainant to his house to hold talks, then, she along with her husband went to the house of A1, wherein A1, his wife A2, his son A3 and four others

formed themselves into an unlawful assembly, wrongfully confined them in their house, abused them in filthy language in the name of their caste, beat them indiscriminately with foot wear, hurled kicks on stomach and threatened them with dire consequences demanding to leave Sircilla till morning, otherwise they would kill them and their children. Thereafter, when they came out of the house of the accused and at turning point of their house, A3 along with the four of his friends waylaid them, beat her husband with sticks, stones and bats indiscriminately with an intention to kill him. They also pelted stone on his stomach and head resulting severe bleeding injuries on his head and when they ran into their house, the accused came there and tried to kill him by hitting with stones. On receipt of information, the police shifted her husband to the hospital.

4. Learned counsel for the petitioner/accused submits on the basis of omnibus and vague allegations against the petitioners, the present crime was registered and they have been dragged into unnecessary litigation by the de-facto complainant and her family members, who are trying to settle scores with each other. He further submits that the present case is instituted as counter blast with an intention to get away the offence committed by the husband of the de-facto complainant against a student. He further submits that the complaint was filed with a *malafide* intention and with the allegations contrary to record and in such circumstances, the complaint itself is gross abuse of process of law and the implication of the petitioners in the crime is not maintainable. Thus, he prays to quash the FIR against the petitioners.

5. Learned Additional Public Prosecutor opposed the prayer for quashing of the F.I.R., and submits that the contents of FIR would disclose the cognizable offence against the petitioners and there are serious allegations against them and that the investigation is still pending and therefore, the FIR cannot be quashed.

6. After considering the various decisions including the decision of **State of Haryana v. Bhajan Lal**¹'s Case, I am of the view that there can be no interference with the investigation or order staying arrest of the petitioner unless cognizable offence is not ex-facie discernable from the allegations contained in the FIR or there is any statutory restriction operating on the power of the police to investigate a case. From a perusal of the F.I.R., *prima facie*, it cannot be said that no cognizable offence is made out. Hence, no ground exists for quashing of the F.I.R or staying the arrest of the petitioner. However, having regard to the facts and circumstances, the petitioners/A1 to A3 are directed to surrender before the trial Court within three weeks from today and file an application for bail, and on filing such application, the trial Court shall consider the same in accordance with law, after giving notice to the Public Prosecutor. Till such time of surrender of petitioners/A1 to A3, no coercive steps shall be taken against them. It is made clear that if the petitioners/A1 to A3 failed to surrender before the trial Court within the stipulated period, coercive steps shall be taken against them.

7. With the above directions, the Criminal Petition is disposed of.

¹ 1992 SCC (Crl.)426

8. Miscellaneous petitions, if any pending in this criminal petition, shall stand closed.

10th December, 2019

JUSTICE G.SRI DEVI

sj



