IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT HYDERABAD

TUESDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HONOURABLE SRI JUSTICE T. VINOD KUMAR

CRIMINAL PETITION NO: 7501 OF 2019

Between:

Poreddy Gopal Reddy, s/o late Kanaka Reddy, aged Major, Occ. Business, R/o. 6-510, Srinagar colony 4th lane Kothagudem Town, Khammam

...Petitioner/Accused No.1

AND

1. The state of Telangana, Through the Police station Kothagudem 3 town Bhadradri,Kothagudem District, represented by the Public Prosecutor, High Court Buildings Hyderabad.
2. Bodikala Jyothi Kumari, W/o. Krupadayal, aged 35 years, caste SC, Occ. Nurse at Dr.Vandanapu Venkateshwar Rao, R/o. Buddagadda of Kothagude,

...Respondent

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the SC.SPL-SESSIONS CASES -SC/ST.No.50 of 2019 on the file of the Court of the 7th SPECIAL SESSIONS JUDGE FOR SC/ST CASES(COURT) KHAMMAM.

I.A. NO: 1 OF 2019

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to dispense with certified copy charge sheet of SC.SPL - SESSIONS CASE-SC/ST.No.50 of 2019, dated on the file of Court of the 7th SPECIAL SESSIONS JUDGE FOR SC/ST CASES(COURT) KHAMMAM.

I.A. NO: 2 OF 2019

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay the proceedings of the SC.SPL -SESSIONS CASE-SC/ST.No.50 of 2019 on the file of the Court of the 7th SPECIAL SESSIONS JUDGE FOR SC/ST CASES (COURT) KHAMMAM including the appearance of the petitioner pending disposal of the above Criminal Petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri J. C. Francis, Advocate for the Petitioner and the Assistant Public Prosecutor on behalf of the Respondent No.1 and of Sri M.V. Hanumantha Rao, Advocate for the Respondent No. 2

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

Criminal Petition No.7501 of 2019

ORDER:

The present Criminal Petition is filed under Section 482 of Cr.P.C. by the petitioner/A.1 seeking to quash the SC Special Sessions Case SC/ST No.50 of 2019 on the file of VII Special Judge for SC/ST Cases (Court), Khammam.

2. Heard Sri J.C. Francis, learned counsel for the petitioner/A.1, learned Additional Public Prosecutor appearing for the respondent-State and Sri M.V. Hanumantha Rao, learned counsel appearing on behalf of the 2nd respondent/*de facto* complainant. Perused the material placed on record.

3. With the consent of the learned counsel appearing for the parties, the criminal petition is taken up for hearing through Video Conferencing in the Virtual Court today, i.e., 08.12.2020.

4. It is the case of the petitioner that he is the owner of the building wherein one Dr. Vandanapu Venkateswar Rao is running a medical clinic/hospital and there are disputes relating to eviction of the premises by the said Dr. V. Venkateswar Rao. It is the further case of the petitioner that while the said civil dispute relating to the termination of licence is in progress, in order to circumvent the said proceeding, the petitioner has been implicated in the above case falsely at the behest of said Dr. V. Venkateswar Rao. It is also stated that the provisions of Section 3 (1)(r) (s) and Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity 'the SC/ST (POA) Act' under which the petitioner is charged with, are not all attracted.

5. The learned counsel for the petitioner would submit that even going into the contents of complaint made by the *de facto* complainant and also the contents of charge sheet filed after conducting investigation, no case whatsoever has been made out against the petitioner for invoking the provisions of SC/ST (POA) Act. While emphatically asserting the pleas taken, the learned counsel for the petitioner would further submit that in order to attract the provisions of SC/ST (POA) Act, in particular abusing a person by reference to caste, such utterance should be in public view, as required under Section 3 (1)(r) of the SC/ST (POA) Act. It is stated by the learned counsel for the petitioner that neither in the complaint lodged nor during the investigation, it has been established, that the petitioner has abused the *de facto* complaint by reference to her caste. Thus, the learned counsel for the petitioner submits that this court by exercising its inherent powers under Section 482 of Cr.P.C, is empowered to quash the SC No. 50 of 2019. In support of his submission, the learned counsel for the petitioner has relied on a judgment of the Hon'ble Supreme Court in the case of ***Kalpana Mehta v. Union of India***[1].

6. *Per contra*, the learned Additional Public Prosecutor would submit that the incident complained had taken place in the year 2016 and FIR No.320 of 2016 was registered by the respondent police against the petitioner as A.1 and two other persons as A.2 & A.3. Upon registration of crime and taking up the investigation, the respondent authorities apart from examining the *de facto* complainant as I.W.1, have examined I.Ws.2 to 4 who are eye witnesses to the incident complained. Further, I.Ws.5 to 9 were

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[1] (2018) 7 SCC 1

examined as circumstantial witnesses and LWs.10 & 11 were examined as punch witnesses to the incident complained of. The officials, who gave caste certificates relating to the declaration of caste of the accused persons, were examined as LWs.12 to 14 and other official witnesses were examined as LWs.15 to 17, who conducted the investigation in the matter.

7. The learned Additional Public Prosecutor would further submit that the complaint made and investigation conducted clearly establishes that the provisions of Sections 3 (1) and (2) of the SC/ST (POA) Act are attracted, inasmuch as the petitioner/ accused is stated to have been made reference to defacto complainant by her caste during his overt act of digging trench with the help of JCB proclainer in front of the hospital, where the complainant is working being abutting the road, which is within the public view. Since, such reference to the petitioner by her caste is made in the public view and in the presence of her co-employees and other eye witnesses, who cannot be considered as family members, the provisions of the SC/ST (POA) Act clearly stand attracted.

8. Having due consideration to the submissions made as above, the law as laid down by the Hon'ble Supreme Court in ***the State of Haryana v. Bhajanlal***[*], wherein the Hon'ble Apex Court has declared the principle relating to the quashing of proceedings by the High Court in exercise of inherent powers under Section 482 of Cr.P.C, this Court is of the *prima facie* view that the claim of the petitioner that the provisions of the SC/ST (POA) Act are not

[*] 1992 (Suppl) (1) SCC 335

attracted, cannot be accepted. Further, it is to be noted that in such kind of cases, where the allegations are required to be proved in court of law, the power under Section 482 of Cr.P.C. cannot be exercised as has been held by the Hon'ble Apex Court in the case of ***State of Madhya Pradesh v. Yogendra Singh Jadon and another***[2].

9. In view of the above and the law as enunciated by the Hon'ble Supreme Court in various decisions and the facts of the case, this court is of the view that the present case do not qualify to be considered as an exceptional case for invoking and exercising the inherent powers under Section 482 of Cr.P.C. for quashing the SC Special Sessions Case SC/ST No.50 of 2019 on the file of VII Special Judge for SC/ST Cases (Court), Khammam. Since, the petitioner feels that the charge sheet filed in the above case does not disclose any offence being committed or the provisions of Section 3 (1)(r)(s) of SC/ST (POA) Act are not being attracted, it is open for the petitioner to avail remedies in accordance with law by filing an appropriate application before the trial Court seeking discharge under the provisions of Criminal Procedure Code, if so advised.

10. Subject to the above observations, the Criminal Petition is disposed of. Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

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[2] 2020 SCC Online 111

SD/-M.MANJULA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The VII Special Sessions Judge for SC/ST Cases (Court) Khammam.
2. The III Additional Judicial First Class Magistrate, at Kothagudem.
3. The Station House Officer, III Town Police Station, Kothagudem.
4. Two CCs to the Public Prosecutor, High Court for the State of Telangana, at Hyderabad [OUT]
5. One CC to Sri J. C. Francis, Advocate [OPUC]
6. One CC to Sri M.V. Hanumantaha Rao, Advocate [OPUC]
7. Two CD Copies

MMK

HIGH COURT

DATED:08/12/2020



ORDER

CRLP.No.7501 of 2019

DISPOSING OF THE CRIMINAL PETITION

(9) VLV 14/12/20