

HONOURABLE JUSTICE G. SRI DEVI

WRIT PETITION NO.26036 OF 2019

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India with the following relief.

“...to issue a Writ, Order or Direction more particularly one in the nature of Writ of Certiorari calling for the records of the complaint of the fourth respondent dated 03.09.2019 registered as Crime No.337 of 2019 for the offence under Sections 498-A and 506 of the Indian Penal Code and quash the same as violative of Article 20(2) of the Constitution of India and Section 300 of Cr.P.C., with a consequential direction to declare the action of the 2nd and 3rd respondents seeking addition of charge under the provisions of SC/ST Act, 1988 vide proceedings dated 30.09.2019 as bad, arbitrary, capricious and opposed to law and to pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.”

Heard the learned counsel for the petitioner and the learned Government Pleader for Home, Sri D.Vayusen and Sri Sunil Kumar Pittala, learned counsel, appearing for the respondents.

Learned counsel for the petitioner submitted that without verifying the facts and circumstances and allegations against the petitioner, in a routine manner, the petitioner’s name is included in the above said offence and hence, the crime, which has been registered against the petitioner, is liable to be quashed. It is further contended that the complainant filed the present complaint with false and frivolous allegations and the present FIR is liable to be quashed.

Learned Additional Public Prosecutor opposed the prayer for quashing of the FIR and submits that the contents of the FIR clearly disclose cognizable offence and the FIR lodged in this case cannot be quashed.

After considering the various decisions including the decision of **State of Haryana v. Bhajan Lal Case**¹, I am of the view that there can be no interference with the investigation 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 FIR, *prima facie*, it cannot be said that no cognizable offence is made out. Hence, no ground exists for quashing of the FIR.

Accordingly, the Writ Petition is dismissed.

Miscellaneous applications, if any, pending shall stand dismissed.

(G. SRI DEVI, J)

5th February 2020
RRB

¹ 1992 SCC (CrI.) 426