

(2022) 08 TEL CK 0006
In the Telangana High Court
Case No : Criminal Petition No. 6567 Of 2013

Bayaneni Venkata Satya Varaprasad

APPELLANT

Vs

State Of AP., Another

RESPONDENT

Date of Decision : 02-08-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 155(2), 156(1), 156(3), 482

Indian Penal Code, 1860 — Section 109, 506

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 — Section 3(1)(ix), 3(1)(x), 3(1)(xi), 3(1)(xii), (2)(v), 2(vi)

Citation : (2022) 08 TEL CK 0006

Hon'ble Judges : A.Santhosh Reddy, J

Bench : Single Bench

Advocate : P Vamsheedhar Reddy

Final Decision : Dismissed

Judgement

1. This criminal petition is filed under Section 482 Cr.P.C to quash the proceedings against the petitioner/A-5 in Cr.No.5 of 2012 of Kothagudem I-Town Police Station, Khammam District, registered for the offences punishable under Sections 506 read with Section 109 IPC and under Sections 3(ix) (x) (xi) (xii) (xv), 2 (v) (vi) of the of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act').

2. Heard learned counsel for the petitioner, learned counsel for the second respondent/complainant and learned Assistant Public Prosecutor appearing for the first respondents/State. Perused the record.

3. The second respondent filed a private complaint before the learned First Additional Judicial Magistrate of First Class, Kothagudem, against A-1 to A-7 for the offences punishable under Sections 3(ix) (x) (xi) (xii) (xv), 2 (v) (vi) of the of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under Sections 506 read with Section 109 IPC and the same was forwarded by the learned Magistrate to the police under Section 156(3) Cr.P.C.,

for investigation and report. Thereafter, the Police, Kothagudem I Town registered a case in Cr.No.5 of 2012 against A-1 to A-7.

4. It is alleged by the second respondent in the complaint that A-1 is working as a police constable, who stayed in a portion of the house owned by the mother of the second respondent as a tenant. A-2 to A-7 used to visit the house of the complainant occasionally. A-1 to A-7 are into the business of real estate and they learnt that she had saved quite some money. A-1 had developed intimacy with the second respondent. The second respondent is working as Staff Nurse in Singareni Collieries Company Limited and she went to Saudi Arabia for better salary. A-1 assured to marry her and the said acquaintance led to relationship. A-1 to A-7 made her to invest Rs.19 lakhs in the partnership to construct apartment at Khammam and also assured that they will give share in the business. They have also taken two gold chains and one bracelet from her while A-1 has collected Rs.80,000/- for sale of Maruthi Suzuki car. The second respondent also spent over Rs.one lakh to A-1 towards purchase of clothes, shoes etc., from Saudi Arabia.

5. It is stated that the second respondent was made to quit the job in Saudi Arabia and come to India and at the instance of A-1 to A-7, she came to India and they assured that A-1 would marry her. The accused fraudulently gave false information to the Registrar of Firms, Khammam by creating false document dated 20.07.2010 to knock away her 40% share in the registered firm. The second respondent was intentionally intimidated and humiliated in public view at her house by using force and A-1 illegally married another girl and all the accused enriched through the second respondent's money and dishonoured her and outraged her by alleging and questioning her modesty. The accused denied the second respondent from enjoying her 40% share in the business and harassed her and with the abetment of A-2 to A-5, A-1 had sexually exploited her and forced her to leave the house and also the business where she invested Rs.19 lakhs. A-6 and A-7 have also criminally intimidated her several times to eliminate her in one way or the other by seeing her end and all the accused tried to screen the evidence and offence committed by them. A-1 to A-5, who belongs to forward caste, have been trying to denigrate and humiliate the second respondent as she belongs to scheduled caste community. A-1 to A-7 through A-1 have doctored and fabricated a blue film type video showing the second respondent in a deprived way where A-1 had subjugated her. They have also prepared another audio showing the second respondent in a denigrated manner. By keeping the audio and video clippings, all the accused blackmailed and humiliated the second respondent. Based on the above complaint, the police registered a case against the petitioner in Cr.No.5 of 2012 for the offences stated above. Aggrieved by the same, the petitioner/A-5 filed the present petition seeking to quash the proceedings against him.

6. Learned counsel for the petitioner submits that prior to filing of the complaint in the present case, a similar complaint was filed by the second respondent

earlier and the same was registered as Cr.No.83 of 2011 by Khammam II Town police, wherein the police conducted investigation and filed charge sheet and it is the subject matter of C.C.No.499 of 2011. Suppressing the said fact, again the present complaint has been filed by the second respondent with similar set of allegations and the same is not maintainable. Learned counsel further submits that A-6 and A-7 filed CrI.P.No.8028 of 2012 before this court seeking to quash the proceedings against them in Cr.No.5 of 2012 of Kothagudem I Town Police Station. By order dated 26.04.2013, this court quashed the proceedings against them. Learned counsel further submits that the second respondent neither belongs to SC community nor ST community and she is a Christian and to prove her caste, he has filed consolidated study, conduct & date of birth certificate. He, therefore, prays to quash the proceedings against the petitioner/A-5.

7. Learned counsel for the second respondent submits that the allegations in the complaint prima facie constitute the alleged offences against the petitioner/A-5 and other accused. He further submits the petitioner/A-5 and A-1 to A-4, who belong to forward caste, showed the second respondent in a denigrated manner and blackmailed her. There are sufficient allegations constituting the alleged offences. He prays to dismiss the criminal petition.

8. The material on record shows that the second respondent filed two complaints, first is dated 20.04.2011, which is subject matter of Cr.No.83 of 2011 and the second is dated 13.12.2011, which is subject matter of the present crime i.e., Cr.No.5 of 2012. On a comparison of contents of both the complaints shows that some allegations are similar and some are not. However, in the present case, it is alleged that the second respondent belongs to scheduled caste community while A-1 to A-5 belongs to forward caste. The accused fraudulently gave false information to the Registrar of Firms, Khammam by creating false document dated 20.07.2010 to knock away her 40% share in the registered firm to cause wrongful loss to her. Apart from that, it is alleged that A-1 had promised to marry her and later A-1 criminally intimidated her and on the instigation of A-2 to A-7 humiliated and harassed her, denigrated her and used force against her and exploited her and thereby committed the offences alleged.

9. This court by order dated 26.04.2013 in CrI.P.No.8028 of 2012, while quashing the proceedings against petitioners/A-6 and A-7 in Cr.No.5 of 2012 of Kothagudem I Town Police Station, held that the petitioners/A-6 and A-7 belong to scheduled tribe and therefore, they cannot be prosecuted for the offences punishable under the Act. Coming to the facts of the present case, A-1 to A-5 belongs to forward caste community and specific allegations have been leveled against them other accused constituting the alleged offences.

10. In STATE OF HARYANA v. BHAJAN LAL 1992 SCC (Cri) 426, the Hon'ble Apex Court laid the following guidelines while exercising the powers under Section 482 Cr.P.C and gave the following categories of cases by way of illustrations wherein such power could be exercised either to prevent abuse of process of the court or otherwise to secure the ends of justice, as under:

(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) (g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge”.

11. The allegations in the FIR/complaint and the other material accompanying thereto, disclose cognizable offences justifying investigation by police officer. The present case does not fall in any of the parameters of judgment of the Apex Court referred to supra.

12. Be that as it may, the allegations in the complaint show that the second respondent belongs to scheduled caste community whereas the learned counsel for the petitioner submits that the complainant belongs to Christian community. Further, the consolidated study, conduct & date of birth certificate issued by the school also show that she is a Christian by religion. The question as to whether she belongs to christian community or schedule caste community is a question of fact which has to be decided by the trial court and the truth or otherwise of the allegations in the complaint would be known only after full-fledged trial.

13. Therefore, I am of the view that it is not a fit case to quash the proceedings against the petitioner/A-5 by invoking the inherent powers of this court under

Section 482 Cr.P.C.

14. The criminal petition is, accordingly, dismissed.

15. Pending miscellaneous petitions, if any, stand closed.