

(2017) 02 KAR CK 0028
In the Karnataka High Court
Case No : Criminal Petition No. 5519 of 2015

K. Arjuman Banu

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 06-02-2017

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 154, Section 482
Penal Code, 1860 (IPC) — Section 34, Section 342
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(1)(x)

Citation : (2017) 2 AirKarR 479

Hon'ble Judges : John Michael Cunha, J.

Bench : Single Bench

Advocate : Sri. Hashmath Pasha, Advocate, for the Petitioner; Sri. Vijaya Kumar Majage, Addl. SPP, for the Respondent Nos. 1 and 2; Served, for the Respondent No. 3

Final Decision : Disposed Off

Judgement

John Michael Cunha, J.—; Heard the learned counsel for the petitioner and the learned Additional State Public Prosecutor.

2. This petition is filed under Section 482 of Cr.P.C. seeking to quash the F.I.R. registered in Crime No.154/2015 on the file of the Channagiri Police Station, Davanagere District for the alleged offence under Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under Section 342 read with Section 34 of I.P.C.

3. One Smt. Savitha lodged a complaint before the Channagiri Police on 01.05.2015 alleging that on 22.04.2015 at about 10.45 p.m, her husband Chowdappa was taken to the police station by two policemen and two lady police. On 24.04.2015 when she visited Vidya Nagar Police station, she found her husband in the police station hand-cuffed and in her presence the police abused and assaulted her husband. In the complaint it is specifically alleged that even

though her husband was arrested on 22.04.2015, he was not produced before the Magistrate immediately, instead he was illegally detained in the police station for three days and hence, she sought necessary action against the concerned.

4. In the complaint, she has specifically stated that she belongs to Scheduled Caste and her husband has been illegally detained in the police station. Based on this complaint the F.I.R. is registered for the offence punishable under Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under Section 342 read with Section 34 of I.P.C. against four accused persons.

5. Petitioner herein is accused No.2. There is no dispute that at the relevant point of time the petitioner herein was the Circle Inspector of Police, Davanagere Central Circle.

6. It is the submission of the learned counsel for the petitioner that a complaint was registered against the aforesaid Chowdappa in Crime No.13/2015 in Women Police Station, Davanagere, alleging commission of offences punishable under Sections 376, 316, 417, 506, 114 read with Section 149 of I.P.C. The said complaint was initially investigated by Women police station and the petitioner herein took over the further investigation in the said case. During the course of further investigation on 25.04.2015 at 05.00 p.m, the aforesaid Chowdappa was produced before the petitioner herein. The learned counsel points out that there is a relevant entry to this effect in the Prison Search Register (PSR) dated 24.04.2015.

7. The learned counsel further submits that the petitioner is no way instrumental in the alleged illegal detention of the husband of the complainant and this is evident from the fact that on 24.04.2015, when the petitioner herein visited the Women Police Station and Vidyanagar Police Station, he has made an entry in the visitors book as to why the arrest of Chowdappa was not brought to the notice of petitioner. Therefore the initiation of criminal action against the petitioner is wholly unwarranted.

8. The learned Additional SPP submits that after registration of the case, the requisite material has been forwarded to the Sanctioning Authority and the sanction order is awaited. With regard to the allegations made in the FIR, the learned Additional SPP submits that the allegations squarely fall within the ambit of Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under Section 342 read with Section 34 of I.P.C. and therefore, there is no ground whatsoever to quash the proceedings as sought for by the petitioner.

9. On perusal of the complaint, it reveals that the husband of the complainant was taken from his house at 10.45 p.m. on 22.04.2015. From the documents referred to by the learned counsel for the petitioner, it indicates that he was not produced before the Court until 24.04.2015. Under the said circumstances, the allegations made in the complaint that he was illegally detained cannot be said to

be without any basis or ill founded. To that extent, the prayer made by the petitioner to quash the FIR registered for the offences under Section 342 r/w Section 34 of I.P.C. cannot be entertained at this stage.

10. With regard to the invocation of Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, is concerned, it may be relevant to refer to Section 3(1)(x) of the Act, which reads as under:

3(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe -

(x) "intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view."

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.

There are absolutely no averments or allegations whatsoever in the entire complaint attracting the ingredient of Section 3(1)(x) of the Act. No doubt in the complaint it is stated that the complainant belongs to SC community but, that by itself does not bring the illegal detention within the purview of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. There is nothing in the entire complaint to indicate that the husband of the complainant was secured solely because he belonged to Scheduled Caste or that he was not produced before the court with an intention to intimidate or insult him on account of his caste. Under the said circumstances incorporation of Section 3(1)(x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is totally unwarranted and a misuse of the provisions of the Act. To this extent I find that the registration of FIR and the investigation into the allegations of the commission of offence punishable under Section 3(1)(x) of the Scheduled Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989, cannot be sustained.

11. As a result, the registration of FIR in C.R. No.154/2015 on the file of the Channagiri Police Station, Davanagere District, only in respect of offence punishable under Section 3(1)(x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and the consequent investigation thereon are quashed.

12. Petition stands partly allowed and disposed of accordingly.