

(2014) 03 AP CK 0167
In the Andhra Pradesh High Court
Case No : Writ Petition No. 4425 of 2014

Smt. A. Rukmini Priya Darshini

APPELLANT

Vs

The Crime Investigation Department and Others

RESPONDENT

Date of Decision : 05-03-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 420 506
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 20 3 3(1) 3(i)(x)

Citation : (2014) 1 ALD(Cri) 985 : (2014) 6 ALT 497

Hon'ble Judges : Nooty Ramamohana Rao, J

Bench : Single Bench

Advocate : S. Chalapathi Rao, for the Appellant;

Final Decision : Dismissed

Judgement

Nooty Ramamohana Rao, J.—This Petition is filed seeking a writ of mandamus for declaring the action of the 1st respondent Crime Investigation Department, represented by its Additional Director General of Police, in directing the 2nd respondent, namely the Village Revenue Officer, Nallagandla Village, Serilingampally Mandal, Ranga Reddy District, to visit the house of the petitioner to ascertain the caste of herself and her family members without there being any cognizable offence committed by her or her family members and without registering any such case against them, at the instance of the 4th respondent, as bad and illegal. Learned Assistant Government Pleader for Home, who has accepted notice on behalf of Respondents 1 to 3 on 19.02.2014, has since secured instructions, in writing, from the Deputy Superintendent of Police and based thereon, would submit that the 4th respondent herein has lodged a complaint setting out that the persons named therein had abused him by touching his caste and also threatened him with dire consequences apart from manhandling him. Hence, the police of Crime Investigation Department registered a case in Crime No. 6 of 2014 under Sections 420 and 506 of the Indian Penal Code and Section 3(i)(x) of the Scheduled Castes and the

Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "the Act"). The crime was registered on 31.01.2014 and as is required, the investigation was taken up by the Deputy Superintendent of Police. It is stated by the learned Assistant Government Pleader that the Deputy Superintendent of Police examined the complainant, the 4th respondent herein, and other witnesses and recorded their detailed statements also. The Investigating Officer has also sent a requisition to the Tahsildar, Serilingampally to issue caste certificates in respect of the complainant, the 4th respondent herein and the accused persons, so that the preliminary part of the investigation can be accomplished. According to the learned Assistant Government Pleader, the petitioner herein is shown as the fourth accused person in the complaint lodged by the 4th respondent. Therefore, it is essential for the Investigating Officer to find out whether the petitioner herein and her family members do belong to a scheduled caste or a scheduled tribe before proceeding any further. Therefore, no exception need be drawn to the conduct of Respondents 1 to 3.

2. When once the crime is registered u/s 3(i)(x) of the 1989 Act, it is only appropriate that the Investigating Officer should ascertain whether the complainant is a member belonging to a scheduled caste or a scheduled tribe, at the first instance. It is also essential for the Investigating Officer to ascertain, as a fact, whether the accused persons do belong to a scheduled caste or a scheduled tribe, for, Section 3(1) of the Act sets out clearly that whoever, not being a member of a scheduled caste or a scheduled tribe, does insult or intimidate with intent to humiliate a member of a scheduled caste or a scheduled tribe in any place within public view, shall be punishable for imprisonment for a term which shall not be less than six months but which may extend to five years and with fine. Therefore, sub-section (1) of Section 3 of the Act requires the Investigating Officer to be satisfied that the complainant is a member belonging to a scheduled caste or a scheduled tribe and the accused persons do not belong to a scheduled caste or a scheduled tribe. Only when the accused persons are not members of a scheduled caste or a scheduled tribe, the offence gets attracted, but not otherwise. Therefore, it is absolutely essential to ascertain as to whether the accused person, including the writ petitioner herein, does or does not belong to scheduled castes or scheduled tribes. u/s 20 of the Act, provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law. Hence, the provisions of this Act have been given overriding effect.

3. The Writ Petition is therefore, misconceived and it is accordingly dismissed. No costs. Consequently, the miscellaneous applications, if any shall also stand dismissed.