

(2013) 12 KAR CK 0199
In the Karnataka High Court
Case No : Criminal R.P. No. 622 of 2013

Sri Rajendra Prasad and Others

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 11-12-2013

Acts Referred:

Citation : (2013) 12 KAR CK 0199

Hon'ble Judges : H.S. Kempanna, J

Bench : Single Bench

Advocate : B.C. Muddappa, for the Appellant; B. Visweswaraih, HCGP, for the Respondent

Final Decision : Dismissed

Judgement

H.S. Kempanna, J.—Heard. The revision petition is taken-up for final disposal with consent of learned counsel for the petitioner and the learned High Court Government Pleader.

2. The present revision petition preferred by the petitioners is directed against the order dated 08.02.2013 passed in Special Criminal Case No. 8/2011 by the II Additional City Civil and Sessions Judge (CCH-17), Bangalore City, dismissing the application filed by the petitioners u/s 227 of Cr.P.C. seeking for discharge.

3. It is the case of the prosecution, on 05.09.2009 at about 1.40 p.m. when the complainant's children were having their food, A1 along with five others in this case suddenly trespassed into the house of the complainant threatened them with dire consequences at the point of choppers, abused them by taking their caste name, directed them to vacate the house in which they were living and further A5 assaulted CW5-the son of the complainant by kicking him with the legs on his stomach. A1 also abused the complainant taking their caste name; A4 threatened them with dire consequences saying that they would be cut into pieces. Such being the position, it is alleged, again on 11.09.2009, at about 8 30 p.m., her children had sat for taking their food. At that point of time A1, A2, A3

and A5 trespassed into the house of the complainant tore the clothes of her son CW5 and assaulted him. Seeing the same, when she intervened they advanced to assault her and also abused her and her children taking out their caste name and further threatened them with dire consequences saying that they would finish off them. At that point of time, three persons who were working on the road came to the house and rescued them. Thereafter, her children, who had sustained injuries were got treated at K.C. General Hospital. Hence, they have committed the aforementioned offences.

4. Learned counsel for the petitioners contends the occurrence according to the complainant has taken place on 05.09.2009 and 09.11.2009. The complaint has been filed on 22.03.2010 nearly about six months after the occurrence. The husband of the complainant is none other than a Head Constable working in Police Department. The present complaint has been filed since A1 was insisting to vacate the house which had been rented out to them. He, further contends even taking the allegations made in the complaint, no offence is made out u/s 3(1)(x) of SC & ST (POA) Act, 1989, since the abusive words hurled at the complainant and her children are inside the house and not in the public view. He, further contends the case is filed against them belatedly on account of the first petitioner-A1 insisting them to vacate the house. In the circumstances, as there is no material to proceed against them, the impugned order be set aside and they be discharged in the case by allowing the application filed by them before the trial Court.

5. Per contra, learned HCGP supported the impugned order of the trial Court. A perusal of the material on record, more particularly, the complaint filed by CW1 in the case would go to show that it has been filed on 22.03.2010 in respect of the occurrence which has taken place on 05.09.2009 and 09.11.2009. No-doubt, as submitted by learned counsel for the petitioner, there is a delay but that delay has to be explained by the prosecution at the time of trial. It cannot be appreciated at this stage. The complaint averments reveal the accused have trespassed into the house of the complainant, assaulted her children namely CW5 and another and also have abused them by taking out their caste name. Though it is the contention of learned counsel for the petitioners that the offence u/s SC and ST Act is not attracted since the abusive words hurled at the complainant and her children are inside the house and not within the purview of public view, Since the statements of the witnesses who have rescued the complainant and her children reveal that they have seen the abusive words hurled against the complainant and her children, it is too pre-mature to appreciate the submission of learned counsel for the petitioners. At any rate, having regard to the material now on record, it cannot be said that there are no sufficient grounds to proceed against the petitioners as contemplated u/s 239 of Cr.P.C., which is the provision that is applicable to the present case. In the circumstances, I find no infirmity in the order of the trial Judge calling for interference. Accordingly, there is no merit in the petition and it is dismissed.