
(2010) 04 AP CK 0020

In the Andhra Pradesh High Court

Case No : Criminal Petition No. 1099 of 2008

Sunkari Sathaiah, Ithangoni Ashok, Smt. Mogudala
Laxmamma and Smt. Ithangoni Sugunamma

APPELLANT

Vs

The State of Andhra Pradesh and Sri Erigi Gurunadham

RESPONDENT

Date of Decision : 29-04-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Penal Code, 1860 (IPC) — Section 324, 342, 506

Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3

Citation : (2010) 2 ALD(Cri) 363 : (2011) CriLJ 51

Hon'ble Judges : B. Chandra Kumar, J

Bench : Single Bench

**Advocate : S. Ashok Anand Kumar, for the Appellant; Additional Public
Prosecutor for Respondent No. 1 and K. Ravi Shankar, for the Respondent**

Final Decision : Dismissed

Judgement

B. Chandra Kumar, J.—This Criminal Petition, u/s 482 Cr.P.C. is filed by the petitioner praying to quash the proceedings in Crime No. 969 of 2007 on the file of the Police Station, L.B. Nagar, Hyderabad.

2. According to the learned Counsel for the petitioner, the police have completed investigation and laid charge sheet. Copy of the Remand Case Diary has been filed along with the petition. It reveals that the petitioners herein belong to other than scheduled caste and scheduled tribe community. One Anitha, daughter of Narshima, who was other than scheduled caste and scheduled tribe community, resident of Bangarigadda Village, Chandur Mandal, Nalgonda District was studying intermediate first year course in Naveena College. One Erigi Sravan Kumar, S/o. Muthaiah, belonging to scheduled caste community, resident of Donipamula Village, was also studying in the same college. It appears that both of them became friends and were moving together. It is alleged that the petitioners herein and some others came in two Tata Sumo vehicles to Nalgonda

on 20.09.2007 and while Erigi Sravan Kumar (L.W.2) was proceeding to his room by walk, A-2 to A-8 who came in Tata Sumo bearing No. AP 11 X 108, forcibly kidnapped the said boy tying his hands and legs. Cloth piece was kept in the mouth of the victim to prevent him from raising his voice. He was abused in the name of his caste. On the way, he was shifted into another vehicle. He was beaten black and blue and was taken to Hyderabad. He was detained in the house of A-10 at Reddy Colony, Sagar Ring Road, L.B. Nagar, Hyderabad and there, A-1 to A-8 along with A-9 and A-10 beat the victim indiscriminately with sticks, belts. The victim was also kicked. He was also abused in the name of his caste. It is also alleged that tape-recorder was played in loud voice while beating the victim. On 20.09.2007 at about 07:00 P.M. in the evening, A-2 telephoned the brother of the victim and informed that the victim is in their custody at Reddy Colony, Sagar Ring Road, L.B. Nagar and directed him to come along with two elderly persons and take away the victim. Then the brother of the victim, along with some other persons, went there and they were also abused in the name of their caste. The victim was not in a position to speak. Accused threatened that they would kill the boy if he speaks with Anitha. Then the brother of the victim took the victim to the police station and from there, he was shifted to the hospital.

3. The words alleged to have been uttered by the accused reveal that the only reason for attacking the victim and causing injuries is that he though belongs to scheduled caste community, was talking with the girl belonging to some other community i.e. other than the scheduled caste and scheduled tribe community. The victim was shifted to Osmania General Hospital, Hyderabad, and from there, he was shifted to Sai Vani Hospital, Indira Park, Hyderabad, for better treatment. Upon the report given by Erigi Gurunadham the brother of the victim, police registered a case in Crime No. 984 of 2007 for the offences punishable u/s 3 of the Scheduled Caste and Scheduled Tribe (Prevention of atrocities) Act, 1989, ("SCs & STs Act", for brevity) and Sections 324, 342, 506 IPC and during the pendency of investigation, this petition has been filed.

4. The Remand Report shows that several witnesses were examined. A-1 and A-3 were arrested on 06.02.2008 and they were remanded to judicial custody. Learned Counsel for the petitioner submits that the complaint has been given by the person who had not witnessed the incident and that he had no knowledge about the incident. It is also his submission that the contents of the Remand Report discloses that the victim did not make any allegation which attract the provisions of the SCs & STs Act. It is also submitted that there are no specific allegations against A-3 and A-4. Admittedly, copy of FIR and the statements of the witnesses have not been filed. Of course, it is submitted that though the petitioners tried to obtain certified copy of the FIR and other statements, they were not made available to them on some ground or the other. Whether the accused had any intention to insult a member of Scheduled caste or Scheduled Tribe can be decided from the facts and circumstances of the case. Admittedly, Anitha belongs to other than the scheduled caste and scheduled tribe community

and she and the victim boy, who belong to scheduled caste community, were studying together. The allegation is that since the victim in this case was taking with that girl, the petitioners bore grudge against the victim and they wanted to teach him a lesson. It is not the case of the petitioners that they did not know that the victim belongs to scheduled caste community. When they had knowledge that the victim belongs to scheduled caste community and they are the members of other than Scheduled Caste community and when it is alleged that the main attack was only for the reason that the boy belonging to scheduled caste community was talking with a girl belonging to some other community, it cannot be said that the accused never intended to insult the member of Scheduled Caste community. Intention can be gathered from the circumstances.

5. Moreover, it is immaterial whether the de-facto complaint is given by the victim or by any eye-witnesses or by any other person. There is no rule that only the eyewitness should give report with regard to a cognizable offence. Moreover in this case, the de-facto complainant was informed by one of the accused about the availability of the victim boy at L.B. Nagar and then the de-facto complaint himself, along with others, went to L.B. Nagar where the victim boy was detained. They found the victim in unconscious state. It is also alleged that the de-facto complainant was also abused and beaten. Therefore, it cannot be said that the complainant had no first hand information. It is also clear from the facts of the case that the de-facto complainant himself had shifted the victim boy to the hospital. Since the victim was not in a position to talk and was in unconscious state, there was no other go for the complainant to give report to the police.

6. Learned Counsel for the petitioner lastly submitted that the complaint given by the brother of the victim is a counter-blast to the complaint given by Anitha. He has filed a copy of the complaint said to have been lodged by Anitha. Admittedly, the said complaint was lodged on 27.09.2007 whereas the complaint in this case was lodged on 22.09.2007. That means, after one week of occurrence of the alleged incident, complaint was lodged by Anitha. Therefore, no importance can be given to the said complaint lodged by Anitha at this stage. Moreover, settled legal position is that the documents filed by the accused cannot be looked into at this stage. The High Court, while considering the application filed to quash proceedings and while exercising inherent powers u/s 482 Cr.P.C. is not expected to appreciate evidence. Only in Cases in which the allegations made against the accused in the complaint or in the FIR did not constitute any offence even though those allegations are taken at their face value and are accepted in their entirety, the proceedings can be quashed. In the above circumstances, I am of the opinion that the petition is devoid of merits and is liable to be dismissed.

7. Accordingly, the Criminal Petition is dismissed. It is made clear that the prima facie observations made in this petition need not be taken into consideration by the trial Court while appreciating the evidence.