
(2012) 09 AP CK 0011
In the Andhra Pradesh High Court
Case No : Criminal P. No. 1731 of 2010

U. Sadasivaiah

APPELLANT

Vs

State of Andhra Pradesh and Others

RESPONDENT

Date of Decision : 20-09-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (2013) 1 ALD(Cri) 364

Hon'ble Judges : K.C. Bhanu, J

Bench : Single Bench

Advocate : M. Sreeramulu Reddy, for the Appellant; J. Chandraiab, for the Respondent Nos. 2 and 3, for the Respondent

Final Decision : Allowed

Judgement

K.C. Bhanu, J.—This criminal petition, u/s 482 Cr.PC is filed to quash the order passed in PRC No. 1 of 2010 in CFR No. 2110 of 2009 by the II Additional Judicial Magistrate of First Class, Proddatur. The brief facts that are necessary for disposal of the present criminal petition may be stated as follows:

Petitioner is the Sub-Inspector of Police, Proddatur Rural Police Station, Kadapa District. On 29.8.2009 while the petitioner was collecting the pipes, A1 came to the field and questioned that the pipes belong to him. Then complainant replied that the pipes belongs to him. Thereafter, A1 alleged to have caught hold the hair of the complainant and slapped on the right cheek by abusing him in the name of his caste. A2 and A3 also said to have abused the complainant in the name of his caste. Thereafter, the complainant went to police station, where police recorded his statement. A4 informed that the case has been registered and gave copies of their statements. When the complaint was pursued by somebody, there is nothing in the complaint and they asked the complainant to go to the Court. The complainant went to police station and questioned A4 why he has not registered the case. Then A4 said that "whether his head was broken, leg or hands broken, or whether they raped his wife" and hence he did not register the case.

Thereafter, the complainant filed a complaint against A1 to A3 and it was dismissed for default after several adjournments. Thereafter, he filed second complaint which is being questioned in the quash petition.

2. Learned Counsel appearing for the petitioner contended that except PW1 no other witness stated about abusing the de facto complainant in the public place or in the presence of anybody; that the de facto complainant himself admitted that except himself and S.I. of Police, no one is present in the police station at that time; that the witnesses examined on behalf of the de facto complainant i.e., PWs. 2 to 6 did not speak anything with regard the offences punishable u/s 3(1)(ix) or 3(1)(x) of the Act; and hence, he prays to quash the order.

3. Learned Counsel for the petitioner also relied on a decision of the apex Court reported i Asmathunnisa Vs. State of A.P. represented by the Public Prosecutor, High Court of A.P., Hyderabad and Another, wherein it was held thus:

The aforesaid paragraphs clearly mean that the words used are "in any place but within public view", which means that the public must view the person being insulted for which he must be present and no offence on the allegations under the said section gets attracted if the person is not present.

4. Similarly he also relied on a decision of the apex Court reported in Swaran Singh and Others Vs. State through Standing Counsel and Another, wherein it was held thus:

We have already stated above that in today's context even calling a person "chamar" ordinarily amounts to intentionally insulting that person with intent to humiliate him. It is evident from a perusal of the FIR that appellant 1 Swaran Singh joined his wife and daughter in insulting Vinod Nagar, and he also used the word "chamar" in a derogatory sense. However, a perusal of the FIR shows that Swaran Singh did not use these offensive words in the public view. There is nothing in the FIR to show that any member of the public was present when Swaran Singh uttered these words, or that the place where he uttered them was a place which ordinarily could be seen by the public. Hence in our opinion no prima facie offence is made out against appellant 1.

5. u/s 3(1)(ix) of the Act whoever, not being a member of a Scheduled Caste or a Scheduled Tribe gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or a Scheduled Tribe.

6. Similarly u/s 3(1)(x) of the Act whoever, not being a member of a Scheduled Caste or Scheduled Tribe 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.

7. The only allegation levelled against the petitioner is that he abused the de facto complainant in the name of his caste. But, the same was not done in a

place within the public view. On the own admission of the de facto complainant, it is clear that except himself and S.I. of Police, no other person was present in the police station. Similarly, PW2 who is no other than the wife of PW1 who went to police station along with PW1, admittedly was not present at that time when the petitioner allegedly abused the de facto complainant in the name of his caste- In view of Asmathunnisa's case (supra), the proceedings against the petitioner is liable to be quashed. Accordingly, the criminal petition is allowed quashing the order, dated 15.2.2010 in PRC No. 1 of 2010 in CFR No. 2110 of 2009 on the file of the II Additional Judicial Magistrate of First Class, Proddatur against the petitioner.