

HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

CRIMINAL PETITION No.7421 of 2019

ORDER:

1. This Criminal Petition is filed by the petitioner under section 482 of the Code of Criminal Procedure to quash the proceedings against the petitioner, in FIR No.245 of 2019, dated 09.11.2019 on the file of the Tekkali Police Station, Srikakulam District. The alleged offences against the petitioner are under sections 323, 279, 506 of IPC and Sections 3(1)(r)(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Heard Sri M.Siva Kumar, learned counsel for the petitioner and the learned Public Prosecutor appearing for the 1st respondent / State.

3. Learned counsel for the petitioner submits that as there is no acquaintance of the accused with the complainant, it cannot be presumed that the petitioner has knowledge, that the complainant belongs to SC and ST Community, hence, abusing in the name of Caste is inherently unbelievable. He also points out that the alleged offence took place on 08.11.2019 at about 10.00 am., whereas, report was lodged on 09.11.2019 at about 8.15 pm., and there is no explanation for the delay, and therefore, prays to quash the proceedings.

4. Learned Public Prosecutor opposed the application and submits that at this stage, the matter should not be quashed, particularly as serious allegations are pending against the petitioner.

5. However, as rightly pointed out by the learned counsel for the petitioner, since there is a bar under section 18 of Scheduled

Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, and right to seek bail under section 438 of Cr.P.C., is not available, this Court is of the opinion that some interim protection should be given in view of the issues raised. He also relied upon the Judgment of the Hon'ble Supreme Court of India in ***State of Telangana Vs. Habib Abdullah Jeelani & others***¹, wherein at paragraph 23, it is held that where section 438 Cr.P.C., has not been deleted, the High Court can entertain the application under section 482 of Cr.P.C. In these circumstances, this Court is of the opinion that police should be allowed to continue their investigation without taking any coercive steps including arrest of the petitioner till the completion of the investigation.

6. With these observations, the criminal petition is disposed of.

As a sequel, miscellaneous petitions, if any, pending in this Criminal petition shall stand closed.

D.V.S.S.SOMAYAJULU,J

Date: 04.12.2019
rpd.

¹ 2017 AIR (SC) 373

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