

Megha Arora vs State of Karnataka by

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Court : Karnataka

Decided On : Oct-23-2024

Judge : M.Nagaprasanna

Appeal No. : CRL.P/3997/2024

Appellant : Megha Arora

Respondent : State of Karnataka by

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF OCTOBER, 2024 BEFORE THE HON'BLE MR JUSTICE M.NAGAPRASANNA CRIMINAL PETITION NO. 3997 OF 2024 BETWEEN: MEGHA ARORA, D/O CHANDRA KANT ARORA, AGED ABOUT 42 YEARS, RESIDING AT 90/1, 2ND FLOOR, OSBORNE ROAD, HERMIT COLONY, S C GARDEN, BHARATHINAGAR, BANGALORE - 560 042. Digitally signed by NAGAVENI PETITIONER Location: HIGH COURT OF (BY SRI. MAHESH S., ADVOCATE) KARNATAKA AND:

1. STATE OF KARNATAKA BY BHARATHINAGAR POLICE STATION, BANGALORE, REP. BY THE STATE PUBLIC PROSECUTOR, HIGH COURT OF KARNATAKA, BANGALORE - 560 001. -2-

2. PALANI G, AGED ABOUT 48 YEARS, S/O GOVINDSWAMY, R/A NO.72, SATYANAGAR MAIN ROAD, MARUTHISEVANAGAR, BANGALORE - 560 033.

RESPONDENTS (BY SRI. HARISH GANAPATHY, HCGP FOR R1; SRI. BASAVARAJ R.Y, ADV. FOR R2) THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO QUASH THE FIR IN CR.NO.58/2024 DATED 06.04.2024 REGISTERED BY THE 1st RESPONDENT BHARATHINAGAR POLICE STATION, BENGALURU PENDING ON THE FILE OF THE COURT OF CCH-LXX ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, COMPLEX, BENGALURU AS AGAINST THE PETITIONER FOR OFFENCE P/US/ 3(1)(r)(s) OF The SCHEDULED CASTES AND THE SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT, 1989 AND SEC.504, 506 OF IPC 1860 AGAINST THE PETITIONER HEREIN. THIS PETITION, COMING ON FOR ADMISSION, THIS DAY,

ORDER WAS MADE THEREIN AS UNDER:

-3- CORAM: HON'BLE MR JUSTICE M.NAGAPRASANNA

ORAL ORDER

The petitioner is before calling in question the registration of crime in Crime No.58/2024 for the offences punishable under Section 3(1)(r)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (the Act for short) and under Sections 504 and 506 of the IPC, pending on the file of the Court of CCH LXX Additional City Civil and Sessions Judge, Bengaluru.

2. Learned counsel for the petitioner and respondent

No.2 in unison submit that during the pendency of the case, the parties to the lis have settled the dispute and filed an application under Section 528 of BNSS

seeking permission to compound the offences along with the affidavit of the parties. The affidavit of the petitioner, reads as follows: " AFFIDAVIT I, Megha Arora, D/o. Chandra Kant Arora, Aged about 42 years, Residing at 90/1, 2nd Floor, Osborne Road Hermit Colony, S C Garden, Bharathinagar Bangalore 560 042 do hereby solemnly affirm and state on oath as follows: -4-

1. I state that I am the Petitioner in the above petition and I know the facts and circumstances of the case. Hence I am swearing to this affidavit.

2. I state that based on a complaint registered by the

first informant/respondent no2, the respondent no 1 police have registered a case in of Crime No. 3(1)(r) and 3(1)(s) of the SC and ST (Prevention of Atrocities) Act 1989 and section 504 and 506 of the IPC 1860.

3. I state that the 2nd respondent herein was working

as driver for my estranged husband. In view of certain circumstances, FIR was lodged. However, we have amicably resolved our dispute leading to registration of criminal case pursuant to intervention by well wishers and as such the 2nd respondent is agreeable for quashing of entire proceedings.

4. I state that in view of settlement between me and

2nd respondent and the consent for no objection by 2nd respondent for quashing of for offences under Section 3(1)(r) and 3(1)(s) of the SC and ST (Prevention of Atrocities) Act 1989 and section 504 and 506 of the IPC 1860 initiated by the 1st respondent police pending on the file of the Court of CCH 71, City Civil Complex, Bangalore. Further, in view of the voluntary nature of compromise between me and the victim/2nd respondent, it would be just and necessary for this Hon'ble Court to quash the proceedings in view of the compromise between me and 2nd respondent

5. I pray that this Hon'ble court be pleased to quash

the FIR in Crime No. 58/2024, for the offences punishable under sections for offences under Section 3(1)(r) and 3(1)(s) of the SC and ST (Prevention of Atrocities) Act 1989 and section 504 and 506 of the IPC 1860 initiated by the 1st respondent police pending on the file of the Court of CCH 71, City Civil Complex, Bangalore in view of settlement amongst me and 2nd respondent -5-

I swear that this is my true name and signature and whatever stated above are true and correct to the best of my knowledge, information and belief" The affidavit of respondent No.2, reads as follows: " AFFIDAVIT I, Palani G, Aged about 48 Years, S/o. Govindswamy, R/a. no 72, Satyanagar Main road, Maruthisevanagar Post Bangalore 560 033 do hereby solemnly affirm and state on oath as follows:

1. I state that I am the 2nd respondent in the above petition and I know the facts and circumstances of the case. Hence I am swearing to this affidavit.

2. I state that based on a complaint filed by me, the

respondent no 1 police have registered a case in Crime No. 58/2024 on 06/04/2024 for offences under Section 3(1)(r) and 3(1)(s) of the SC and ST (Prevention of Atrocities) Act 1989 and section 504 and 506 of the IPC

3. I state that and I was working as driver with

estranged husband of petitioner herein. In view of certain circumstances, I had filed complaint. However, now I have amicably resolved our dispute leading to registration of criminal case pursuant to intervention by well wishers and as such I am agreeable for quashing of FIR against petitioner.

4. I state that in view of settlement between me and

petitioner and my consent for no objection for quashing of Crime No. 58/2024 on 06/04/2024 for offences under Section 3(1)(r) and 3(1)(s) of the SC and ST (Prevention of Atrocities) Act 1989 and section 504 and 506 of the IPC 1860 On account of voluntary nature of compromise

between me and petitioner in view of our settlement, it would be just and necessary for this Hon'ble Court to quash the proceedings -6-

5. I pray that this Hon'ble court be pleased to quash

the FIR in Crime No. 58/2024 on 06/04/2024 for offences under Section 3(1)(r) and 3(1)(s) of the SC and ST (Prevention of Atrocities) Act 1989 and section 504 and 506 of the IPC 1860 pending on the file of pending on the file of the Court of CCH 71, City Civil Complex, Bangalore in of settlement amongst me and petitioner

I swear that this is my true name and signature and whatever stated above are true and correct to the best of my knowledge, information and belief."

3. Learned High Court Government Pleader would

contend that the issue in the lis concerning the offence ones punishable under the Act and therefore, settlement should not be accepted. The petitioner has to undergo trial and come out clean. He seeks dismissal of the petition.

4. The issue is whether the compromise between the

parties can be accepted by this Court qua the provisions of the Act. The issue need not detain this Court for long or delve deep into the matter as the Apex Court in the case of RAMAWATAR VS. STATE OF MADHYA PRADESH reported in 2021 SCC ONLINE SC 966, has held as follows: 15. Ordinarily, when dealing with offences arising out of special statutes such as the SC/ST Act, the Court will be extremely circumspect in its approach. The SC/ST Act has been specifically enacted to deter acts of indignity, humiliation and harassment against members of Scheduled Castes and -7-

Scheduled Tribes. The Act is also a recognition of the depressing reality that despite undertaking several measures, the Scheduled Castes/Scheduled Tribes continue to be subjected to various atrocities at the hands of upper-castes. The Courts have to be mindful of the fact that the Act has been enacted keeping in view the express constitutional safeguards enumerated in Articles 15, 17 and 21 of

the Constitution, with a twin-fold objective of protecting the members of these vulnerable communities as well as to provide relief and rehabilitation to the victims of caste-based atrocities.

16. On the other hand, where it appears to the Court that

the offence in question, although covered under the SC/ST Act, is primarily private or civil in nature, or where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar lines, when considering a prayer for quashing on the basis of a compromise/settlement, if the Court is satisfied that the underlying objective of the Act would not be contravened or diminished even if the felony in question goes unpunished, the mere fact that the offence is covered under a special statute would not refrain this Court or the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482 Cr.P.C.

17. Adverting to the case in hand, we note that the present Appellant has been charged and convicted under the unamended Section 3(1)(x) of the SC/ST Act⁷, which was as follows: 3. Punishments for offences of atrocities- (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,- xxxx

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view; xxxx

18. We may hasten to add that in cases such as the present, the Courts ought to be even more vigilant to ensure -8-

that the complainant-victim has entered into the compromise on the volition of his/her free will and not on account of any duress. It cannot be understated that since members of the Scheduled Caste and Scheduled Tribe belong to the weaker sections of our country, they are more prone to acts of coercion, and therefore ought to be accorded a higher level of protection. If the Courts find even a hint of compulsion or force, no relief can be given to the accused party. What factors the Courts should consider, would depend on the facts and circumstances of each

case.

19. Having considered the peculiar facts and circumstances

of the present case in light of the afore-stated principles, as well as having meditated on the application for compromise, we are inclined to invoke the powers under Article 142 and quash the instant Criminal proceedings with the sole objective of doing complete justice between the parties before us. We say so for the reasons that:

Firstly, the very purpose behind Section 3(1)(x) of the

SC/ST is to deter caste-based insults and intimidations when they are used with the intention of demeaning a victim on account of he/she belonging to the Scheduled Caste/Scheduled Tribe community. In the present case, the record manifests that there was an undeniable pre-existing civil dispute between the parties. The case of the Appellant, from the very beginning, has been that the alleged abuses were uttered solely on account of frustration and anger over the pending dispute. Thus, the genesis of the deprecated incident was the aforesaid civil/property dispute. Considering this aspect, we are of the opinion that it would not be incorrect to categorise the occurrence as one being overwhelmingly private in nature, having only subtle undertones of criminality, even though the provisions of a special statute have been attracted in the present case. Secondly, the offence in question, for which the Appellant has been convicted, does not appear to exhibit his mental depravity. The aim of the SC/ST Act is to protect members of the downtrodden classes from atrocious acts of the upper strata of the society. It appears to us that although the Appellant may not belong to the same caste as the Complainant, he too belongs to the relatively weaker/backward section of the society and is certainly not in any better economic or social position when compared to the victim. Despite the rampant prevalence of segregation in Indian

villages whereby members of the Scheduled Caste and Scheduled Tribe community are forced to restrict their quarters only to certain areas, it is

seen that in the present case, the Appellant and the Complainant lived in adjoining houses. Therefore, keeping in mind the socio-economic status of the Appellant, we are of the opinion that the overriding objective of the SC/ST Act would not be overwhelmed if the present proceedings are quashed. Thirdly, the incident occurred way back in the year 1994. Nothing on record indicates that either before or after the purported compromise, any untoward incident had transpired between the parties. The State Counsel has also not brought to our attention any other occurrence that would lead us to believe that the Appellant is either a repeat offender or is unremorseful about what transpired. Fourthly, the Complainant has, on her own free will, without any compulsion, entered into a compromise and wishes to drop the present criminal proceedings against the accused. Fifthly, given the nature of the offence, it is immaterial that the trial against the Appellant had been concluded. Sixthly, the Appellant and the Complainant parties are residents of the same village and live in very close proximity to each other. We have no reason to doubt that the parties themselves have voluntarily settled their differences. Therefore, in order to avoid the revival of healed wounds, and to advance peace and harmony, it will be prudent to effectuate the present settlement. (Emphasis supplied)

In the light of the afore-quoted judgment of the Apex Court, which has held that invoking power under Article 142 of the Constitution of India or under Section 482 of the Cr.P.C., the proceedings initiated under the Act may be permitted to close, if the complainant is willing to settle the issue. The - 10 -

judgment of the Apex Court in the case of RAMAWATAR

(supra) is also followed by this Court in CrI.P.No.2349/2023 disposed on 21.04.2023. Therefore, I deem it appropriate to accept the application and the affidavit so filed and obliterate the proceedings for the offences punishable under the Act and also the offences ones punishable under Sections 504 and 506 of the IPC, against the petitioner as the allegations are not against the State.

5. For the aforesaid reasons, the following:

ORDER

(i) The Criminal Petition is disposed; and

(ii) The FIR in Crime No.58/2024 registered by the

Bharathinagar Police Station, Bengaluru pending on the file of the Court of CCH LXX Additional City Civil and Sessions Judge, Bengaluru, stand quashed, qua the petitioner. Sd/- (M.NAGAPRASANNA) JUDGE KG List No.: 1 SI No.: 85 CT: BHK

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