

Ediga Ramesh Vs. State of A.P.

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Court : Andhra Pradesh

Decided On : Dec-27-2005

Reported in : 2006(1)ALD(Cri)324; 2006CriLJ1443

Judge : Gopala Krishna Tamada, J.

Acts : Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Sections 3 and 3(1); [Indian Penal Code \(IPC\), 1860](#) - Sections 12, 34, 323 and 324; [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 482

Appeal No. : Criminal Appeal No. 404 of 1998

Appellant : Ediga Ramesh

Respondent : State of A.P.

Advocate for Def. : P.P.

Advocate for Pet/Ap. : S. Satyam Reddy, Adv.

Disposition : Appeal dismissed

Judgement :

Gopala Krishna Tamada, J.

1. This appeal is directed against the judgment of the learned I Additional Sessions Judge, Ranga Reddy District, Saroornagar, Hyderabad, in C.C. No. 33 of

1996, dated 27-2-1998, whereby the appellant/A 1 was convicted of the offences punishable under Section 3(1)(x) of the S.C. & S.T. (Prevention of Atrocities) Act, 1989 (for brevity 'the Act') read with Section 323 of the Indian Penal Code (for brevity 'IPC') and sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs. 500/-, in default, to suffer simple imprisonment for a period of one month. A2 to A4 were also convicted of the offence under Section 323, IPC and sentenced to pay a fine of Rs. 500/-, in default, to suffer simple imprisonment for a period of one month.

2. The case of the prosecution, in brief, is that A-1 is the son, A-3 is the wife and A-4 is the sister of one Yellaiah. A-2 is the mother of A-3. All the accused and the de facto-complainant, who was examined as P.W. 1, are all residents of Peddemul village. Since P.W. 1 has got illegal intimacy with the father of A-1, the accused beat her with hands, legs and stones, on 3-4-1996 at about 8 a.m., when P.W.1 was proceeding to purchase some kirana articles in a shop in the village, and caused injuries on her right hand and they also abused her in filthy language as 'OSSA MADIGA LANJA MAA ILLU APRINAVU NEE MADGI PUKULA MODDA NEE PUKU DEGUDUNU'. Immediately after the incident, based on a report given by P.W. 1, the Sub-Inspector of Police, who was examined as P.W.5, registered a case in Crime No. 9 of 1996 for the alleged offence punishable under Section 3(1)(x) of the Act and also Section 324 read with Section 34, IPC. Thereafter, P.W. 1 was sent to Government Hospital, Tanduru, for treatment and there, one Dr. Kameswari, Civil Assistant Surgeon, who was examined as P.W.4, treated her and gave a Wound Certificate marked as Ex.P-4. Subsequently, the accused were arrested on 5-4-1996 and were remanded to judicial custody. After completion of investigation, the charge-sheet was filed by P.W.5.

3. The plea of the appellant/A1 is one of total denial. The prosecution in order to prove its case against the accused examined P.Ws. 1 to 5 and got marked Exs.P1 to P5. The learned I Additional Sessions Judge, on appraisal of entire evidence, both oral and documentary, held that the prosecution has proved the offence under Section 3(1)(x) of the Act read with Section 323, IPC against the appellant/A1 and accordingly convicted and sentenced as stated supra. Aggrieved by the said conviction and sentence, A1 preferred this appeal.

4. Heard Sri S. Satyam Reddy, the learned Counsel for the appellant and the learned Additional Public Prosecutor.

5. The offence alleged against the appellant is one under Section 3(1)(x) of the Act. For the sake of convenience, the said provision of law is extracted hereunder :

Section 3(1)(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.

6. When once the entire Section of law i.e., Section 3 of the Act is looked at, there is any amount of difference from the wording that is used in Section 3(1)(x) of the Act with that of other provisions of law mentioned in Section 3 of the Act. It appears that the intention of the Legislature in drafting Section 3(1)(x) of the Act is that the said insult or intimidation should have happened in any place within the view of the public. Whereas, for the other offences such as outraging the modesty etc., as defined under Section 3(1)(x) of the Act, it is not stated that such an offence should have happened within public view. Hence, this Court is of the view that the offence must have happened within the public view to attract the provisions of Section 3(1)(x) of the Act.

7. learned Counsel for the appellant, Mr. Sathyam Reddy, has drawn my attention to various judgments of this Court, i.e., (1) Bharat Petroleum Corporation Limited, Mumbai v. Union of India : 2000(5)ALD566 ; (2) J. Sumana v. Endluri Aseerwadamma 2003 (1) ALD (Cri) 252 (AP); and K. Padma Reddy v. Station House Officer, Bellampalli 2003 (2) ALD (Cri) 421 : 2004 Cri LJ 503 (AP).

8. In the above said judgments, this Court has taken a view that if an offence is committed in any place, which is not within the public view, it cannot be treated as an offence, to attract the provisions of Section 3(1)(x) of the Act, and accordingly allowed the criminal petitions and quashed the first information reports. However, another learned single Judge of this Court, while dealing with the case of Goluguri Ramkrishna Reddy v. State of A.P. 2005 (1) ALD (Cri) 771 (AP) has taken a different view and the same is as under :

Section 12 of the Indian Penal Code, 1860, defines the word 'public' as to mean 'to include any class of the public or any community'. Therefore, the phrase 'in a place within the public view' may be taken as a place where ordinarily the public visit for some purpose or other than with uninterrupted regularity though not continuously. Any place where a Government office is located, any market, a place of public entertainment and the like, where people are expected to go and are invited is a place 'within the public view'. An office or an office room where the head of the office sits is also a place within the public view but the private ante chamber of such officer cannot be treated as a place within the public view because except the personal servants of the officer, nobody can enter the private chambers. Similarly, an officer's house is not a place within the public view. If a person opens any shop - be it for selling services or be it for selling feed for prawn culture; opens such a shop with an implied invitation to the public to visit the shop for purchasing the feed sold, such a shop must be given a public character and is certainly as place within public view.

The learned single Judge thus refused to quash the Criminal complaint.

9. In the light of the said conflicting views of this Court, first this Court thought that it would be appropriate to refer the matter to a Division Bench for an authoritative pronouncement. But, as those judgments are in Criminal Petitions filed under Section 482 of the Code of Criminal Procedure, 1973, and the instant case is a Criminal Appeal against the judgment of conviction, this Court is not inclined to refer the matter to a Division Bench for two reasons i.e. (1) Having gone through the various judgments as cited supra, this Court is of the view that the interpretation given by various Judges, (supra) appears to be more plausible than the judgment of the learned single Judge in the case of Goluguri Ramkrishna Reddy v. State of A.P. (supra). The question involved in all the three judgments of various Judges is as to whether the criminal proceedings are to be quashed or not, and the learned Judges, after elaborate discussion, have come to those conclusions. As already observed, the instant case is an appeal, and according to me, the said judgments have no application to the case on hand.

10. In the light of the discussion made above, this Court is of the view the alleged incident should have happened within the public view. It must be seen as to whether the said offence and happened in a place within the public view. In the report marked as Ex.P 1, dated 3-4-1996, P.W. 1 has not only stated that it happened near the house of Dr. Ranga Rao, but also stated that the same was witnessed by Talari Chandrappa and Konda Veerappa, who were examined as P.Ws.2 and 3. In the Court also she has deposed to the same extent that the alleged offence took place near the house of Dr. Ranga Rao, which, in my considered view, definitely is within the public view, provided it is supported by some other evidence. To support the said evidence, as already stated, P.Ws.2 and 3 are examined, who unfortunately, did not support the case of the prosecution, and as such they were declared hostile. When the said evidence of P.W. 1 is not supported by any other evidence, it is not possible to give credence to the solitary testimony of P.W. 1 to base a conviction. Hence, this Court has no hesitation to hold that the alleged offence does not attract the provisions of Section 3(1)(x) of the Act and as such the finding of the Court below that the appellant is guilty of the offence under Section 3(1)(x) of the Act is liable to be set aside.

11. In the result, the Criminal Appeal is allowed and the conviction and sentence imposed by the Court below against the accused for the offence under Section 3(1)(x) of the Act read with Section 323, IPC is hereby set aside and the appellant/accused is acquitted of the said charge and he shall be set at liberty forthwith, if he is not required in any other case.

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