

V.Sudhakar Vs. R.Ram Mohanrao and Another

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Court : Andhra Pradesh

Decided On : Jan-23-2012

Judge : R.Kantha Rao, J.

Acts : Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act - Section 3(1)(10), 3(1)(8) and (9); [Indian Penal Code \(IPC\), 1860](#) - Sections 186, 506; [Code of Criminal Procedure \(Cr.P.C\), 1973](#) - Section 227, 197, 482;

Appeal No. : Crl.R.C.No. 1249 of 2004 AND Crl.R.C.No. 1250 of 2004

Appellant : V.Sudhakar

Respondent : R.Ram Mohanrao and anr

Advocate for Def. : B.VIJAYSEN REDDY; Public Prosecutor, Adv.

Advocate for Pet/Ap. : K.Ram Reddy, Adv.

Judgement :

R.KANTHA RAO, J.

COMMON JUDGMENT:

1. Crl.R.C.No.1249 of 2004 arises out of Crl.M.P.No.180 of 2004 in S.C.No.24 of 2004 on the file of the I Additional Sessions Judge, Ranga Reddy District.

2. Crl.R.C.No.1250 of 2004 arises out of Crl.M.P.No.16 of 2004 in S.C.No.27 of 2003 on the file of the I Additional Sessions Judge, Ranga Reddy District.
3. I have heard the learned counsel appearing for the petitioner/complainant, first respondent/accused and the learned Additional Public Prosecutor representing the State/second respondent.
4. The brief facts giving rise for filing the criminal revision cases are that the wife of the revisionist Smt.T.Bazaramma was working as Bill Collector in Gram Panchayat, Uppal Kalan Municipality was having some disputes with the then Municipal Commissioner G.Ram Narayana Reddy and also some municipal staff which led to departmental action against her by withholding increments, future promotion, recovery of some amounts and surrendering her services to the Controller of Commissioner and Director of Municipal Administration to post her in any other municipality preceded by suspension from services. She approached the Andhra Pradesh Appellate Tribunal which considered her case and issued a direction to the Commissioner Uppal Kalan Municipality to continue her in the same office. When the said orders of the A.P.A.T. were not implemented, she had to approach this Court and obtained an order in W.P.No.28148 of 1998 dated 09.10.1998 which order was also not implemented by the Municipal authorities. Thereafter, she filed contempt cases vide C.C.No.818 of 1999 and C.C.No. 189 of 2000. Ultimately she was transferred from Sherilingampally and posted to Uppal Kalan Municipality by the Commissioner and Director of Municipal Administration.
5. The incident in the case arose on the day when Smt.T.Bazaramma approached the first respondent along with the revisionist who is her husband on 08.01.1999 to submit a joining report and to join duty. The revisionist who accompanied her enquired with first respondent and asked about the settlement of arrears due to his wife which were to be paid to her basing on the directions of this Court. Thereafter, it is said that the first respondent without any provocation from the revisionist suddenly grew wild, abused him in un-parliamentary language by naming his caste in the presence of Dr.K.Muralidhara Reddy and G.Ashok Reddy.
6. In regard to the said incident, the revisionist gave a report to the police alleging that the first respondent abused him in his caste name and thereby committed an

offence punishable under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'the Act'). The Police, Uppal on receiving the said report registered a case in Crime No.361 of 1999 on 11.11.1999. The first respondent's version is that at the time when the petitioner's wife Smt. Bazamma submitted joining report, though he accepted the same and permitted her to join duty, the petitioner picked up unnecessary quarrel, intimidated him and obstructed him from discharging his public functions. Alleging as such, he gave a report to Uppal police and basing on his report, a case in Crime No.367 of 1999 under Sections 186 and 506 IPC was registered against the petitioner. The police investigated into both the reports, referred the case registered pursuant to the report of the revision petitioner as false, but filed the charge sheet against the revision petitioner basing on the report lodged by the first respondent. In the said case, N.B.Ws. were also issued against the revision petitioner on the ground that he was absconding. Further development in this case is that the revision petitioner gave another report against the first respondent alleging that the institution of the case basing on the report of the first respondent without any basis amounted to an offence punishable under Sections 3(1)(viii) and (ix) of the Act, 1989 and accordingly he filed a private complaint before the Additional Judicial Magistrate of First Class, East and North, Ranga Reddy District. Subsequently, the said case was transferred to Additional Judicial Magistrate of First Class, West and South, Ranga Reddy District. The learned Magistrate committed the case to the Special Judge under SCs. & STs. (POA), Act-cum-I Additional Sessions Judge, Ranga Reddy District and the learned Additional Sessions Judge took the case on file vide S.C.No.27 of 2003. Further, it requires to be noticed that in protest of referring the case in Crime No.361 of 1999, the revision petitioner also filed a private complaint which was taken on file and was numbered by the learned Additional Sessions Judge as S.C.No.24 of 2004.

7. While both the cases were pending, the first respondent filed two petitions under Section 227 Cr.P.C. to discharge him on the ground that no prima facie case had been made out and that he being a public servant, no case can be filed against him without there being a sanction from the competent authority as required under Section 197 Cr.P.C. The discharge petition in S.C.No.24 of 2004 is numbered as Crl.M.P.No.180 of 2004 and the discharge petition in S.C.No.27 of 2003 is

numbered as CrI.M.P.No.16 of 2004.

8. Learned Additional Sessions Judge on hearing both sides allowed the discharge petitions holding that no prima facie case has been made out against the first respondent. Insofar as CrI.M.P.No.180 of 2004, the learned Special Judge though held that no prima facie case is made out against the first respondent, was of the view that sanction as required under Section 197 Cr.P.C. is not necessary to prosecute the first respondent though he is a public servant since abusing the revision petitioner in the name of his caste cannot be said to be part of his functions. However, the learned Special Judge in CrI.M.P.No.16 of 2004 in S.C.No.27 of 2003 specifically held that since the first respondent filed the complaint on the ground that the revision petitioner deterred him from discharging his official duties and also prevented him to discharge his functions, any offence allegedly committed in that connection shall be regarded as part of his public duties and therefore sanction to prosecute him as required under Section 197 Cr.P.C. is necessary and the complaint is not maintainable without there being any such sanction from the competent authority. The fact however remains that the learned Special Judge allowed both the discharge petitions considering that no prima facie offence alleged in both the cases is made out and therefore, the first respondent is entitled for discharge.

9. Now the point for determination in both the revision cases is as to whether there are any valid grounds to interfere with the orders of discharge passed by the Special Judge in both the cases.

10. Admittedly the incidents alleged, took place in the chambers of the first respondent who is the Commissioner of Uppal Municipality. Since for the first time Smt.Bazaramma approached the first respondent along with her husband to submit joining report, the version of the first respondent that she was a stranger to him can be accepted even though it is the contention of the revision petitioner that in view of the long standing disputes, Smt.Bazaramma having with the then Municipal Commissioner and the municipal staff, in view of various proceedings before the A.P. Administrative Tribunal and this Court, the first respondent cannot plead that he on the date of the alleged incidents did not know Smt.Bazaramma

and her social status. The contention of the revision petitioner cannot be accepted for the simple reason that several employees were working in Uppal Municipality, the first respondent who assumed charge few months prior to the revision petitioner's wife submitting joining report, cannot be attributed with the knowledge about the social status of the revision petitioner's wife.

11. Insofar as the allegation in regard to the first respondent abusing the revision petitioner in his caste name, the learned Special Judge took the view that since the incident took place in the chambers of the first respondent which is a closed one to the public will not be having access without the permission of the first respondent and also no outsiders were present at the time of alleged incidents, the offence under Section 3(1)(x) of the Act is not attracted. The learned Special Judge was of the further view that the revision petitioner being a stranger to first respondent, he cannot be attributed with the knowledge of her social status i.e. to which he belongs and therefore, it is highly difficult to believe that the first respondent abused the revision petitioner in his caste name.

12. To examine the correctness and legality of the order passed by the learned Special Judge, it is necessary to go through some of the following judgments relied upon by the learned counsel appearing for the first respondent: 1) In **SWARAN SINGH AND OTHERS v. STATE THROUGH STANDING COUNSEL (SUPREME COURT)**¹, the Supreme Court held as follows: "The High Court in a petition under Section 482 Cr.P.C. or in a writ petition to quash the proceedings has to see whether on a perusal of FIR, treating allegations to be correct, a criminal offence prima facie made out or not or whether there is any statutory bar, at this stage the correctness or otherwise of the allegations in the FIR has not to be seen by the High Court, and that will be seen at the trial. However, the Supreme Court drew a distinction between expression public view and public place and held that the Court must not therefore confuse the expression 'place within public view' with the expression 'public place', a place can be a private place but yet within the public view, on the other hand, a public place would ordinarily mean a place which is owned or leased by the government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies." (2) Similarly in **GORIGE PENTIAIAH v. STATE**

OF ANDHRA PRADESH AND OTHERS² the Supreme Court referring to its several earlier judgments held that the complainant ought to have alleged that the appellant-acc used was not a member of the Scheduled Caste or a Scheduled Tribe and he was intentionally insulted or intimidated by the accused with intent to humiliate in a place within public view and when the basic ingredients of the offence are missing in the complaint, then permitting such a complaint to continue and to compel the appellant to face the rigmarole of the criminal trial would be totally unjustified leading to abuse of process of law. (3) In BHARAT PETROLEUM CORPORATION LTD. MUMBAI AND OTHERS v. UNION OF INDIA, MINISTRY OF PETROLEUM AND NATURAL GAS AND OTHERS³ dealing with the quashing of FIR relating to an offence under Section 3(1)(x) of SC and ST (POA) Act, 1989 it was held as follows: "Admittedly in the instant case the alleged offence has taken place in the chambers of the officers where there was no public and which was not within the public view, it does not even the contention of the 4th respondent that the events were viewed by the public on the days mentioned by him in the complaint. In such a situation, it would be very difficult for this Court to conclude that even though public did not view the event, yet, it has to be treated as a offence under Section 3(1)(x) of the Act. The intention of the Parliament is very clear that this insult or intimidation should have been caused in a place within the public view. If it is committed in any place which is not within the public view, it would not be treated as an offence. Otherwise, the Parliament could have omitted the words within the public view."

13. Turning to the facts of the present case, the revision petitioner cited in the complaint only one witness Muralidhar Reddy as the person present at the time of the incident. But, he examined before the learned Magistrate two persons as eyewitnesses, they are, Muralidhar Reddy and Ashok Reddy. Even as per the evidence of the second witness for the complainant, the said witness himself does not know the caste of the revision petitioner-complainant, though he claims to be his friend. Therefore, the question of the first respondent who is altogether stranger to the revision petitioner knowing about the caste of the revision petitioner does not arise. In any event, even if the entire version of the revision petitioner is believed to be true, except his friends, nobody was present in the chambers at the time of the incident. If any utterances are made by the accused in the chambers

which is a closed place to which nobody has access except with the permission of the accused, it cannot be said that the offence was committed in a place within public view. The allegation having regard to the facts and circumstances of the case, seems to be prima facie false. Even if it is considered that any such utterances are made by the first respondent, it cannot be said that they were made in a place within public view. Therefore, as rightly held by the learned Special Judge the offence under Section 3(1)(x) of Act is not attracted. The learned Special Judge gave sufficient and valid reasons for holding that no prima facie case is made out and no offence under Section 3(1)(x) of the Act is attracted. The findings recorded by the learned trial Court which ultimately resulted in discharging the first respondent of the offence punishable under Section 3(1)(x) of the Act do not call for any interference in this revision case and therefore, they are affirmed holding that the offence under Section 3(1)(x) of the Act is not attracted.

14. Insofar as the other case is concerned, the revision petitioner filed a private complaint against the first respondent alleging that he gave a report to the Police Uppal alleging that when he demanded the first respondent to pay his wife the arrears of salary, sanction the increments for the past 12 years, the complainant grew wild and deterred and obstructed him in discharging his official duties. Alleging as such, he gave a report against the first respondent to the police basing on which a case in Crime No.367 of 1999 was registered and thereafter, a charge sheet also came to be filed against the revision petitioner. The police have filed the charge sheet for the offence under Section 186 r/w 506 IPC and the said case is pending against the revision petitioner as CC No.464 of 2000 before the Special Judge, Ranga Reddy District.

15. The revision petitioner referring to the said case filed against him on the report given by the first respondent, filed another private complaint against the first respondent and several others alleging that a false accusation was made against him as afore-stated and that the first respondent and other accused are liable for the offences under Section 3(1)(viii) and (ix) and 3(1)(x) of SCs. and STs. (POA) Act. The learned Magistrate upon recording the evidence adduced by the revision petitioner took the cases on file against the first respondent and committed the cases to the Court of Special Judge and the same is now pending as SC No.27 of

2003. In the said cases, the discharge petition was filed under Section 227 Cr.P.C. by the first respondent. Crl.M.P.No. 16 of 2004 was allowed and he was discharged of the said offence alleged under Section 3(1)(viii) (ix) and 3(2)(viii) of the Act.

16. As to the question whether the said order of discharge requires any interference in these revision cases, it requires to be noticed that the case was still pending before the learned Special Judge and absolutely there was no material to show that the first respondent falsely or maliciously implicated the revision petitioner in a false case alleging that the revision petitioner deterred him and obstructed him from discharging his official duties. The police after thorough investigation filed the charge sheet against the revision petitioner and therefore, according to the investigating agency the allegation levelled against the revision petitioner by the first respondent is true. As rightly held by the learned Special Judge the revision petitioner is facing trial in the said cases which is still pending and in the absence of any clear verdict by the court before which the said case is pending, it is quite premature to hold that the allegation levelled against the revision petitioner is false. Therefore, without there being any prima facie material if the first respondent is made to face another criminal charge basing on the private complaint filed by the petitioner is nothing but abuse of process of law. The learned Special Judge is also perfectly right and justified in holding that since the offence alleged in the present case is committed in discharge of the public duties of the first respondent as a public servant, the sanction to prosecute him for the offence under Section 3(1)(viii) and (ix) r/w 3(1)(x) of the Act is must and without obtaining any such sanction, if the prosecution is allowed to continue, it is an abuse of process of law. The order of discharge passed by the learned Special Judge, therefore does not call for any interference in this revision case.

17. For the foregoing reasons, both the revision cases are dismissed affirming the orders of discharge passed by the learned Special Judge.