

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

Criminal Petition No.1085 OF 2020

Between:

Ram Swaroop Agarwal

... Petitioner

And

1. The State of Telangana, rep. by
its Public Prosecutor, High Court
for the State of Telangana, Hyderabad

...Respondent

2. Avula Naresh

... Respondent/
defacto complainant

DATE OF JUDGMENT PRONOUNCED: 20.10.2022

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

- | | | |
|---|--|--------|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

K.SURENDER, J

*** THE HON'BLE SRI JUSTICE K. SURENDER**

+ CRL.P. No. 8119 of 2016

% Dated 20.10.2022

Ram Swaroop Agarwal

... Petitioner

And

\$1. The State of Telangana, rep. by
its Public Prosecutor, High Court
for the State of Telangana, Hyderabad

...Respondent

2. Avula Naresh

... Respondent/
defacto complainant

! Counsel for the Petitioners: Sri A.Venkatesh

^ Counsel for the Respondents: Public Prosecutor for R1
Sri Praveen Chillara for R2.

>HEAD NOTE:

? Cases referred

¹ (2020) 10 SCC 710

² (2008) 12 Supreme Court Cases 531

³ (2009) 3 Supreme Court Cases 789

⁴ 2022 SCC Online SC 484

THE HON'BLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No. 1085 OF 2020****ORDER:**

This Criminal Petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed seeking to quash the proceedings in S.C.SPL-Session Case-SC/ST No.42 of 2019 dt.30.09.2019 on the file of the VI Additional Metropolitan Sessions Judge-cum-Special Court for SC/ST Cases at Secunderabad. The petitioner herein is accused in the said crime. The offences alleged against him are under Section 506 of the Indian Penal code and Section 3 (1)(r)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 2015.

2. Heard learned counsel for the petitioner and learned Assistant Public Prosecutor appearing for the State and perused the record.

3. The 2nd respondent filed a complaint on 25.03.2017 stating that he was working as Supervisor of Pranav Group at HSEL (Hyderabad Stock Exchange Limited) Building, Erramanzil, Hyderabad; that while he was at the building, three persons entered into the premises. When questioned, one of them who allegedly was the petitioner, informed that he was the owner of the building and came to take photographs of the building. The 2nd respondent requested to come back with the company's permission. On that the petitioner asked the name of the 2nd respondent who informed that he was 'Naresh Madiga'. Without wearing safety helmets, the petitioner and two others went inside the building and took photographs. While coming

outside, the petitioner allegedly abused the 2nd respondent stating that “*Madiga Lanjakodukullara meeru ela Panichestharo chustha mee anthu chustha*”.

5. On the basis of the complaint, the police investigated the case and also sought explanation from the petitioner by giving a notice under Section 41-A of Cr.P.C. In response to the said notice, the petitioner replied that he is the Director of Hyderabad Securities and Enterprises Limited (Erstwhile Hyderabad Stock Exchange Limited) and he had rights to inspect the company’s property; and that he along with two others went inside the building to take photographs of the building to be submitted before the NCLT where proceedings were pending.

6. Learned Counsel for the petitioner submitted that a false case is filed deliberately to intimidate the petitioner from intimating to the NCLT regarding the violation of its orders dt.22.03.2017. He further states that the petitioner is a Hindi speaking person and does not know Telugu language, as such the question of uttering words abusing the 2nd respondent in the name of caste does not arise. He further submits that the 2nd respondent has mentioned his name as ‘Naresh Madiga’, where as in the charge sheet, the police mentioned as “*Madiga Mala Lanja Kodukullara meeretla untaru, ikkada etla untaro chustha*”, which reflects the bias nature of the investigation by the Police Officer, since during the investigation it was found that the 2nd respondent belonged to ‘Mala’ community.

7. Learned Counsel for the petitioner relied upon the Judgments of Honourable Supreme Court in ***Hitesh Verma v. State of Uttarakhand and another***¹ wherein the Honourable Supreme Court was pleased to quash the proceedings under Section 3(1)(r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, as there were civil disputes amongst the parties and further held that any insult or intimidation to a person would not be an offence under the Act unless such insult or intimation is on account of the victim belonging to Scheduled Caste or Scheduled Tribe.

8. He also relied upon the Judgment of the Honourable Supreme Court in ***Gorige Pentaiah v. State of Andhra Pradesh and others***² and in ***Asmathunnisa v. State of Andhra Pradesh in Criminal Appeal No.766 of 2011*** and argued that when the utterance of the words is not within the public view the offence is not attracted.

9. On the other hand learned counsel for the 2nd respondent submits that prima facie case is made out under the provisions of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 2015, for the reason of the petitioner abusing the 2nd respondent in the name of his caste which is punishable under Section 3(1)(r) of the Act.

10. He also relied upon the Judgments rendered by the Honourable Supreme Court in ***Ashabai Machindra Adhagale v. State of***

¹ (2020) 10 SCC 710

² (2008) 12 Supreme Court Cases 531

Maharashtra³ and also **Ramveer Upadhyay vs. State of Uttar Pradesh**⁴ and argued that the powers under Section 482 of the Cr.P.C. have to be exercised sparingly and in exceptional circumstances; and that the present case does not qualify to be an exceptional case. He further argued that when there is prima facie case, the Court has to restrain from quashing the said proceedings.

11. Admittedly, there was a dispute pending before the NCLT and the NCLT by order dated 22.03.2017, after hearing the parties found that the demolition of the building could be stopped pending adjudication of the issue and accordingly granted interim direction to stop demolition of the building till the next date of hearing which was 05.04.2017. As on the date of the complaint i.e. 25.03.2017, the orders of the NCLT were in force and the question of 2nd respondent being present in the said premises supervising the demolition of the building does not arise. The petitioner had filed a Company Petition before the NCLT questioning certain violations and fraudulent acts to gain wrongfully and in the said petition filed by the petitioner, interim orders not to demolish the building were passed as stated above.

12. Admittedly, the petitioner went into the building to substantiate before the NCLT that its orders of not to demolish the building were being flouted. The petitioner also filed a complaint on 25.03.2017 before the Panjagutta Police stating that certain persons at the site were violating the

³ (2009) 3 Supreme Court Cases 789

⁴ 2022 SCC Online SC 484

orders of the NCLT and requested to take action by enclosing a copy of the order of NCLT dt.22.03.2017. The Panjagutta Police acknowledged the complaint of the petitioner. The said acknowledgment number is U2023057173901242.

13. As seen from the charge sheet there is no mention about the complaint of the petitioner being investigated inspite of the said complaint being acknowledged by the Panjagutta Police. The acts of demolition were in clear violation of the orders of the NCLT and apparently to overcome the said acts of the demolition which the petitioner would bring to the notice of the NCLT, as the petitioner had taken photographs and videos of demolition being undertaken three days after the grant of interim relief by the NCLT, the present complaint appears to have been filed.

14. As seen from the complaint, the 2nd respondent was totally a stranger to the petitioner. The petitioner did not even know about the 2nd respondent or his caste. The very complaint casts a doubt revealing the caste name without question. According to the charge sheet complainant is named as Avula Naresh, S/o.Ramaswamy. A caste certificate is also issued in the name of Avula Naresh. When the 2nd respondent name is Avula Naresh, there is any amount of suspicion whether the 2nd respondent stated his name as Naresh Madiga.

15. In the normal course when a person is asked his name, the said person would reply his name. It is not explained as to why the 2nd respondent had stated his name as Naresh Madiga when his name is Avula

Naresh. Further the petitioner is not aware that the 2nd respondent belongs to SC caste and apparently a stranger. An allegation under the said Act would attract only when the insult or intimidation is for the reason of a person belonging to schedule caste or schedule tribe. In the background of the petitioner being present at the scene, violating the orders of the NCLT on the instructions of his employers, fearing proceedings for contempt, the present complaint appears to have been filed, to escape the acts of violating the Court orders and also to intimidate the petitioner who is pursuing the case in the NCLT against the employers of the 2nd respondent/complainant.

16. In view of the aforesaid facts and circumstances, the proceedings against the petitioner are liable to be quashed.

17. Accordingly, the Criminal Petition is allowed and the proceedings in S.C.SPL-Session Case-SC/ST No.42 of 2019 dt.30.09.2019 on the file of the VI Additional Metropolitan Sessions Judge-cum-Special Court for SC/ST Cases at Secunderabad, are hereby quashed.

Miscellaneous applications pending, if any, in this criminal petition, shall stand closed.

K.SURENDER, J

20.10.2022

tk

Note: L.R.Copy

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION NO. 1085 OF 2020

Dt.20.10.2022

tk