

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CRIMINAL PETITION No.1163 of 2014

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. seeking quashing of investigation in Crime No.265 of 2013 of Gajwel Police Station, Medak District, registered for the offences punishable under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act') and Sections 506 and 509 IPC.

The allegations in the report would disclose that, on 01.05.2012, the petitioner is alleged to have abused the second respondent by touching her caste and, subsequently, the matter was pacified in the panchayat. Keeping in mind the earlier disputes, the petitioner used to threaten the second respondent to surrender herself to him failing which he threatened to kill her by pouring kerosene. The petitioner is alleged to have stated that even the loan taken by the husband of the informant would be waived if she surrenders to him. It is further alleged that, on 08.12.2013, when the second respondent and her husband were quarreling in their house, the petitioner jumped the compound wall, stood near the window and was listening to their quarrel. When questioned, the petitioner is alleged to have ran away. It is also alleged that the second respondent is also facing threat to her life in the hands of the petitioner. Basing on these allegations, the above crime came to be registered.

Learned counsel for the petitioner submits that, even accepting the allegations in the complaint to be true, no offence is made out. He further submits that the second respondent's

husband fell due to the petitioner and only with a view to evade the repayment of the due amount, the present report has been lodged.

On the other hand, learned Additional Public Prosecutor submits that the allegations made in the report are matters of investigation and, at this stage, it cannot be said that the report is bereft of basic facts constituting offences punishable under Section 3(1)(x) of the Act and Sections 506 and 509 IPC.

A perusal of the material available on record would disclose that the petitioner abused the second respondent by touching her caste and also behaved in an indecent manner in the absence of her husband apart from threatening her with dire consequences if the informant fails to surrender herself to him. These acts *prima facie* attract the ingredients constituting offences punishable under Section 3(1)(x) of the Act and Sections 506 and 509 IPC. The truth or otherwise of these allegations are matters for investigation and cannot be subjected to examination in proceedings under Section 482 Cr.PC.

Relying upon Section 41A Cr.P.C., the learned counsel for the petitioner submits that the police officer has to scrupulously follow the said section before effecting any arrest. The said argument is not disputed by the learned Additional Public Prosecutor.

Section 41A Cr.P.C. reads as under:

Notice of appearance before police officer:-

1. The police officer shall, in all cases where the arrest of a person is not required under the provisions of sub-section (1) of Section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other

place as may be specified in the notice.

2. Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.
3. Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.
4. Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice.

In view of the above, the Investigating Officer is hereby directed to follow the procedure contemplated under Section 41A Cr.P.C. before proceeding further with the case.

With the above direction, the Criminal Petition is disposed of. Miscellaneous petitions pending, if any, shall also stand dismissed.

C.PRAVEEN KUMAR,J

Date:10.02.2014

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