

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL REVISION CASE No.443 of 2021

ORDER:

This criminal revision case is filed under Sections 397 & 401 of Criminal Procedure Code, 1973 (for short "Cr.P.C") aggrieved by the docket order dated 27.04.2021 passed in C.F.No.25 of 2021 on the file of learned Special Sessions Court for Cases under SCs and STs (POA) Act –cum- VIII Additional District Court, Ananthapuram District.

2. The case of the petitioner is that respondent No.2, who belongs to scheduled community filed a private complaint under Section 200 Cr.P.C. before the Court below against the petitioner and other Police Officers with a prayer to forward the complaint with a direction to register crime under the provisions of SC ST (POA) Act on the allegation that when respondent No.2 approached the petitioner requesting him to take action against the accused in another crime, he abused her in unparliamentary language by touching her caste name. The Court below by docket order dated 27.04.2021 had forwarded said complaint to SHO II Town Police Station under Section 156(3) Cr.P.C. for investigation. Aggrieved by the same, petitioner has approached before this Court.

3. Respondent No.2 filed counter stating that RDO and MRO of their village issued house site patta in respect of land which was assigned to her father and cases are pending with regard to said land. It is stated that when father and brother of respondent No.2 asked the concerned to stop distribution of house site pattas with regard to the said land during pendency of cases, five local leaders of YSR party interfered and beat father and brother of respondent

No.2, as such she lodged a report against them vide crime No.413 of 2020. In spite of the orders of this Court to take necessary action against the said accused, Police have not initiated any proceedings. It is further stated that on 18.03.2021 when respondent No.2 and her father approached the petitioner i.e. Superintendent of Police, Ananthapur with a request to remand accused in crime No.413 of 2020, he abused them in un-parliamentary language by touching their caste name, as such complaint was filed under Section 200 Cr.P.C. before the Court below and the Court below has power and jurisdiction to invoke Section 156(3) of Cr.P.C. to direct investigation in exercise of power conferred to the Station House Officer and the complaint was forwarded to the Police by following the procedure laid down by High Courts and the Hon'ble Apex Court. Hence, prays to dismiss the revision.

4. Heard Sri Suresh Kumar Reddy Kalava, learned counsel for the petitioner, learned Assistant Public Prosecutor appearing on behalf of respondent No.1-state and respondent No.2, Ms. Sake Roja (party in person).

5. Learned counsel for the petitioner submits that respondent No.2 is habituated in filing false criminal cases and she filed sixteen other complaints which include complaints against public servants also. He submits that while exercising power under Section 156(3) Cr.P.C., the Court below failed to appreciate that the allegations made in the complaint are relatable to the functions of the investigating officer and its team members done in discharge of their functions as a public officer in accordance with powers available under the procedural law and substantive law and forwarded the complaint to Police without issuing notice to the

petitioner. Learned counsel for the petitioner has placed reliance on **Maksud Saiyed Vs. State of Gujarat and Others**¹, **Anil Kumar and Ors.Vs. M.K. Aiyappa and Ors**², **Manju Surana Vs. Sunil Arora and Ors.**³ and submitted that Special Judge/Magistrate cannot refer the matter under Section 156(3) against a public servant without a valid sanction order. He submits that respondent No.2 has filed the above complaint by making a sweeping and baseless allegation only to harass and demoralize the Police who are discharging their legitimate duties and the court below has forwarded the complaint in a mechanical manner without issuing notice to the petitioner. Hence, prays to set aside the order under revision.

6. On the other hand, respondent No.2 submits that petitioner cannot raise a contention that 16 other complaints were lodged by respondent No.2 that she is habituated in lodging complaints against public servants and others, as it is her personal issue and there is no illegality in the order under revision. She submits that while exercising power under Section 156(3) Courts can forward complaint to Police without issuing notice to the accused. Hence, there is no illegality in the order impugned and this revision is liable to be dismissed. Relied on **Priyanka Srivastava and Ors. Vs. State of U.P. and Ors.**⁴.

7. In the case on hand, the Magistrate has only directed the Station House Officer, I Town Police Station under Section 156(3) of Cr.P.C for investigation and directed the police to file report by 17.06.2021. The Hon'ble Apex Court has consistently held that

¹ (2008) 5 SCC 668

² (2013) 10 SCC 705

³ (2018) 5 SCC 557

⁴ (2015) 6 SCC 287

when the Magistrate applies his mind and order for investigation under Section 156 (3) of Cr.P.C, he could not be said to have taken cognizance of offence and by doing so, it will be conducive to justice and save the valuable time of the Magistrate from being wasted in enquiring into a matter which was the primary duty of the police to investigate. In this case, the Magistrate has not taken cognizance, but only referred the matter to the police for investigation. At this juncture, as argued by the learned counsel for petitioner that sanction should have been obtained as the petitioner is a public servant has no legs to stand.

8. The petitioner has challenged the order passed by the Magistrate under Section 156 (3) of Cr.P.C and directed to submit a report which is an interlocutory order and revision against such an order under Section 397 (2) of Cr.P.C is barred under law. However, after completion of investigation, if Police come to the conclusion that complaint is filed with false allegations, they can as well close the case by referring it as false. The revision is also liable to be dismissed on the ground of its maintainability as it is not final order and it falls under interlocutory order, which cannot be challenged.

9. In view of the above, this criminal revision case is dismissed.

As a sequel, all the pending miscellaneous applications are closed.

LALITHA KANNEGANTI, J

Date: 05.11.2021

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THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

allowed

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