

THE HON'BLE SMT JUSTICE K. SUJANA

CRIMINAL PETITION NO.3865 OF 2024

ORDER :

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 by the petitioners/accused Nos.6, 8, 9, 30 and 31 to quash the proceedings against them in C.C.No.14471 of 2019 on the file of I-Additional Chief Metropolitan Magistrate at Hyderabad. The offences alleged against them are under Sections 143, 341, 290, 186 r/w.Section 149 of Indian Penal Code (for short the 'IPC').

2. The brief facts of the case are that Sri G.Ravi, S.I of Police, P.S.Saifabad gave a complaint on 17.05.2019 at 1300 hours, stating that on the same day in the morning hours he received information that the Telangana Vidyarthi Vedika (for short 'TVV') organization is proposing to conduct protest programme at Dr.B.R.Ambedkar statue in support of release of Prof. G. N. Sai Baba and Varavara Rao. When he along with other constables were on bandobusth duty at the said place, at about 11.15 hours 13 persons under the leadership of Maddileti, State President of TVV came near Dr.B.R.Ambedkar statue by raising slogans to release Prof. G. N.Sai Baba and Varavara Rao, who were arrested by the Maharashtra Government, formed into unlawful assembly

and started Dharna, without taking any permission and obstructed free flow of traffic by wrongfully restraining the vehicles, thereby caused public nuisance and he came to know their names as Maddileti, P. Gopi, Smt Chukka Shilpa, V.Balram, S. Praveen and others. When, he requested them not to obstruct the traffic, the above persons did not heed his words and obstructed him and his staff in discharging the lawful duties. As a result, he took into custody 13 members and shifted them to Ramgopalpet Police Station. While so, at about 11.40 hours again 18 members gathered as unlawful assembly near Dr.B.R.Ambedkar statue giving slogans, thereby caused public nuisance and obstructed free flow of traffic. He also took them into custody and shifted them to Musheerabad Police Station, Chikkadpally Police Station, Gandhinagar police Station and Abids road Police Station. Basing on the said complaint police registered Cr.No.293 of 2019 under Section 143, 341, 290, 186 r/w.Section 149 of IPC.

3. Heard Sri T. Rahul, learned counsel for the petitioners and Sri S.Ganesh, learned Assistant Public Prosecutor appearing for the respondents.

4. The contention of learned counsel for the petitioners is that the allegations leveled against the petitioners are false. To attract

Section 143 of IPC, the common object of the persons would need to fall within one of the five categories which have been laid down under Section 141 of IPC. In the case on hand there is absolutely no mention of the common object and there is no indication as to how the alleged offence of unlawful assembly is attracted. In this regard he relied on the judgment of the Hon'ble Supreme Court in **Anita Thakur Vs Government of Jammu and Kashmir**¹. His further contention is that petitioners are falsely implicated in the said section in order to suppress the precious fundamental right enshrined in Article 19 (1) of the Constitution of India. Further, there is no allegation in the charge sheet that any vehicles or persons are obstructed by the petitioners to attract the offence under Section 341 of IPC. The protest at Ambedkar Statue itself shows that they are not obstructing the way. There is no public nuisance caused by them, hence, Section 290 of IPC does not attract and there is no allegation in the charge sheet to constitute the offence under Section 186 of IPC, where they have not obstructed any public servant from discharging the duties. He further submits that petitioners are students, except making false and frivolous allegations there are no specific allegations attributed to them, they never participated in any incident as

¹ (2016) 15 SCC 525

alleged and there is no complaint given by any civilian. As such, causing public nuisance and obstructing the traffic is not at all attracted.

5. Learned counsel for the petitioners would submit that the allegations in the charge sheet itself do not constitute any offence much less Sections 143, 341, 290, 186 r/w.section 149 of IPC. All the witnesses in this case are police constables and no public were examined to prove the innocence and all the statements are cyclo-styled statements. Further, petitioners never participated in the alleged protest. As such, prayed the Court to quash the proceedings against the petitioners.

6. On the other hand, the learned Assistant Public Prosecutor would submit that petitioners protested near Ambedkar statue at Tank Bund for release of Prof. G. N. Sai Baba and Varavara Rao who were arrested by the Maharashtra Government. Even though, those two people were not arrested by this Government, petitioners caused nuisance to the public by forming unlawful assembly and the said allegations require trial. Hence, prayed the Court to dismiss this petition.

7. Having regard to the rival submissions and the material placed on record, the allegations against the petitioners are that they formed into unlawful assembly and raised slogans for release

of Prof. G. N. Sai Baba and Varavara Rao who were arrested by the Maharashtra Government. The contention of petitioners is that they never participated in the protest and also relied on the judgment of **Anita Thakur's** case, wherein the Hon'ble Supreme Court observed that Article 19(1)(a) confers freedom of speech to the citizens of this country and, thus, this provision ensures that the petitioners could raise slogan, albeit in a peaceful and orderly manner, without using offensive language. In the present case, there are no allegations that these petitioners used offensive language and there is no evidence to show that due to unlawful assembly, nuisance is caused to the public and that they have obstructed free flow of traffic or obstructed the public or the authorities from discharging their duties. Hence, continuation of proceedings against these petitioners is not tenable and the same is liable to be quashed.

8. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioners/accused Nos.6, 8, 9, 30 and 31 in C.C.No.14471 of 2019 on the file of I-Additional Chief Metropolitan Magistrate at Hyderabad, are hereby quashed. Miscellaneous applications, if any, pending shall stand closed.

Date :07.06.2024
Rds

K. SUJANA, J