

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

MAIN CASE No.: CrI.P. No.5440 of 2021

PROCEEDING SHEET

Sl. No	DATE	ORDER	Office Note
1.	30.09.2021	<p><u>CMR, J</u></p> <p>Learned Additional Public Prosecutor takes notice for the 1st respondent/State and requests time to obtain instructions.</p> <p>Issue notice to the 2nd respondent returnable in four (4) weeks.</p> <p style="text-align: right;">_____ CMR, J</p> <p style="text-align: center;"><u>I.A.No.1 of 2021</u></p> <p>The petitioner is A-5 in Crime No.115 of 2021 of Addateegala Police Station, East Godavari District. The <i>de facto</i> complainant, who is the M.L.A of Rampachodavaram, lodged a report with the police stating that a comment was made in the social media i.e., in Whatsapp group and Facebook against the Hon'ble Chief Minister by resorting to morphing and the said comment has caused loss of reputation of the <i>de facto</i> complainant, who is a tribal woman and an M.L.A. It is stated that the said comment is made to create dispute between various groups. The said report was registered as a case in the above crime for the offences punishable under Sections 153A, 505(2) r/w 34 IPC.</p> <p>Learned counsel for the petitioner would submit that the contents of the F.I.R do not satisfy the ingredients of the offences both under Sections 153A and 505(2) IPC. He would submit that in order to constitute</p>	

an offence under Section 153A IPC, the words either spoken or written, or by signs or by visible representations or otherwise, shall be made to promote disharmony or feelings of enmity, hatred or ill-will between two different religious, racial, language or regional groups or castes or communities, on the ground of religion, race, place of birth, residence, language, caste or community. He would submit that there is nothing to indicate in the F.I.R that any comment was made on the ground of religion, race, place of birth, residence, language, caste or community with an intention to create ill-will between religious, racial, language or regional groups or castes or communities. Therefore, he would submit that no case is made out under Section 153A IPC.

Similarly, it is contended that even to constitute an offence under Section 505(2) IPC that the statement must be made with intent to create or promote hatred or ill-will between religious, racial, language or regional groups or castes or communities on the ground of religion, race, place of birth, residence, language, caste or community etc. Therefore, he would submit that the contents of the F.I.R do not show that any such comment was made on the ground of religion, race, place of birth, residence, language, caste or community with an intent to create any such ill-will between the said groups.

In support of his contention, he has also relied on the judgment of this Court reported in 2020 SCC OnLine AP 726 in the case of *Kantamaneni Ravishankar Vs. State of Andhra Pradesh* wherein it is held at para No.70 that the posting that was in the Youtube is only to insult the Government and the present Chief Minister and the Government and the Chief Minister cannot constitute one group or two groups. Therefore, it does

not constitute an offence punishable under Section 505(2) IPC. At para 61 of the judgment, the judgment of the Apex Court in "*Bilal Ahmed Kaloo Vs. State of Andhra Pradesh*" was also referred stating that the Apex Court drawn the distinction between Section 153A of IPC and Section 505 (2) of I.P.C wherein it is held by the Apex Court that the common ingredient in both the offences is promoting feeling of enmity, hatred or ill-will between different religious or racial or linguistic or regional groups or castes or communities. Therefore, Section 153A covers a case where a person by words, either spoken or written, or by signs or by visible representations attempts to promote such feelings and under Section 505(2) IPC, promotion of such feelings should have been done by making and publishing or circulating any statement or report containing rumor or alarming news. Finally, this Court held that the facts of the case do not constitute any offence under Section 153A or 505(2) IPC.

In view of the ingredients that are contemplated under Section 153A and 505(2) IPC as discussed supra and in view of the aforesaid judgment of this Court, the petitioner could make out a strong *prima facie* case warranting interference of this Court under Section 482 Cr.P.C to examine in the main Criminal Petition whether launching of criminal prosecution against the petitioner for the aforesaid two offences is legally sustainable or not and whether the said F.I.R is liable to be set aside or not.

Therefore, in view of the aforesaid discussion, there shall be interim stay of further proceedings pursuant to registration of F.I.R in Crime No.115 of 2021 of Addateegala Police Station, East Godavari District,

including taking coercive steps against the petitioner, till the next date of hearing.

CMR, J

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