

THE HONOURABLE SMT. JUSTICE T. MADHAVI DEVI

CRIMINAL PETITION NO.9318 OF 2023

ORDER

In this Criminal Petition, the petitioner is seeking quashing of the FIR and all proceedings in Case/FIR No.104 of 2023 on the file of Begum Bazar Police Station, Hyderabad on the ground that the complaint does not reflect any ingredients of violation of Sections 504 and 505 (2) of the Indian Penal Code (IPC) and that the alleged comments do not constitute any criminal offence for initiating any criminal proceedings against him and to pass such other order or orders.

2. The petitioner, party-in-person, submitted that when there appeared a Press Note that the Commissioner of Police, Hyderabad has issued prohibitory orders of all kinds of assembly of more persons near (500 yards) all the Telangana Open School Society (TOSS) SCC and Intermediate Public Examination Centres between 6 am, April 25 and 6 am, May 5, 2023, the petitioner has posted a comment as under:

“Law & Order has become a joke on Telangana... If you cannot do your job without being sooo insecured all the time, you should find another job.

*This is nothing but abuse of office. It's just exam, not some war.
Prohibitory orders, silly!"*

Taking cognizance of the same, the FIR was registered against the petitioner under Sections 504 and 505 (2) of IPC. Challenging the same, the present Criminal Petition has been filed.

3. Learned Assistant Public Prosecutor is also heard. He submitted that the case is only in the FIR stage and further investigation is necessary and the petitioner could not have challenged the FIR.

4. The petitioner, party-in-person, however, has placed reliance upon the decision of the Hon'ble Supreme Court in the case of **Salib @ Shalu @ Salim Vs. The State of Uttar Pradesh and others**¹, wherein it was observed as under:

"The Court while exercising its jurisdiction under Section 482 of the Cr.P.C. or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation."

He submitted that except for consideration of his comment, there is no further investigation required in this case and since the

¹ 2023 INSC 687 (Criminal Appeal No.2344 of 2023 dt.08.08.2023)

complaint/comment does not attract the ingredients of Sections 504 and 505 (2) of IPC, the FIR should be quashed. He prayed accordingly.

5. After hearing both the parties, this Court finds that the provisions of Sections 504 and 505 (2) of IPC read as under:

“504. Intentional insult with intent to provoke breach of the peace.—Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

“505. Statements conducting to public mischief.—(1)

(2) Statements creating or promoting enmity, hatred or ill-will between classes.—Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.”

6. On a literal reading of the above, it is clear that to attract the offence under the above sections, there has to be an intentional insult which is likely to cause provocation to break the public peace, or to

commit any other offence and further, there shall also be promotion of feeling of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities.

7. In this case, the comment is a general comment though it may not be in good taste but does not appear to have been passed to provoke to break the public peace or to promote feeling of enmity, hatred or ill-will between different groups or castes or communities by creating/promoting alarming news against the prohibitory order passed by the Commissioner of Police, Hyderabad. The petitioner has, in fact, relied upon various judgments particularly the judgment of the Hon'ble Supreme Court in the case of **Bilal Ahmed Kaloo Vs. State of Andhra Pradesh**², wherein these two provisions have been considered and it was observed as under:

“The common feature in both sections being promotion of feeling of enmity, hatred or ill-will “between different” religious or racial or language or regional groups or castes and communities it is necessary that at least two such groups or communities should be involved. Merely inciting the feeling of one community or group without any reference to any other community or group cannot attract either of the two sections.”

² Criminal Appeal No.81 of 1997 dt.06.08.1997

8. Therefore, this Court finds that in this case, there are no two groups as required to attract the said provisions and there appears to be no intention to create or promote feeling of enmity, hatred or ill-will between different groups or of disturbing the public peace.

9. In view of the same, this Court does not find any of the above ingredients in the complaint/FIR No.104 of 2023 on the file of Begum Bazar Police Station, Hyderabad to attract the provisions of Sections 504 and 505 (2) of IPC.

10. Accordingly, the Criminal Petition is allowed and FIR No.104 of 2023 on the file of Begum Bazar Police Station, Hyderabad is quashed.

11. Pending miscellaneous petitions, if any, in this Criminal Petition shall stand closed.

JUSTICE T. MADHAVI DEVI

Date: 02.01.2024

Note: Issue C.C. by tomorrow.
B/o Svv