

**IN THE COURT OF THE SPECIAL JUDGE FOR TRIAL OF CASES
UNDER THE SCs & STs (POA) Act****-cum-****II ADDITIONAL DISTRICT AND SESSIONS JUDGE, ADILABAD.**

Present: Dr.P.Siva Ram Prasad

II Addl. District and Sessions Judge, Adilabad

-cum-

Special Judge for trial of Cases under SCs & STs (POA) Act, Adilabad

Wednesday, this the 1st day of May, 2024**SPL.SC.No. 138 of 2022**

1.	Complainant	:	Assistant Commissioner of Police, Bellampalli.
2.	Name of the accused	:	A1: Bairi Pithambaram @ Pithambar, S/o. Raghavulu, Age: 66 yrs., Caste: Padmashali/BC, Occ: Business (Kiran electronic shop), R/o. H.No. 1-2-5, Kannala Basthi, Bellampalli. A2: Bairi Kiran Kumar, S/o. Pithambaram @ Pithambar, Age: 38 yrs., Caste: Padmashali/BC, Occ: Business (Kiran electronic shop), R/o. H.No. 1-2-5, Kannala Basthi, Bellampalli.
3.	Crime No.	:	Cr.No. 84 of 2022 of PS Bellampalli-I town.
4.	Prosecution conducted by	:	Sri Mekala Madhukar Spl. Public Prosecutor, Adilabad.
5.	Defence conducted by	:	Sri A. Amarender Redy, Advocate for accused.
6.	Charges	:	Under Section 448, 427, 290, 506 r/w. 34 IPC and under Section 3(1)(r)(s) and 3(2)(va) of SCs & STs (POA) Act against A1 and A2.
7.	Plea of the accused	:	Pleaded not guilty.
8.	Finding of the court	:	Accused found not guilty
9.	Sentence/order	:	In the result, A1 and A2 are found not

		guilty for the offence under Sections 448, 427, 290, 506 r/w. 34 IPC and under Section 3(1)(r)(s) and 3(2)(va) of SCs & STs (POA) Act, accordingly they are acquitted for the said offence, under Section 232 Cr.P.C and they are set at liberty. The bail bonds of A1 and A2 shall be in force for a period of 6 months under Section 437(A) Cr.P.C. and thereafter the said bonds shall stands canceled. There is no property in this case.
--	--	--

This case is coming up before me for final hearing and disposal on 10/04/2024 in the presence of Sri Mekala Madhukar, Special Public Prosecutor for the State and Sri A. Amarender Reddy, Advocate for A1 and A2 upon perusing the material papers on record, upon hearing arguments on both sides and having stood over the matter for consideration till this day; this Court delivered the following:-

J U D G M E N T

01. The Assistant Commissioner of Police, Bellampalli filed charge sheet alleging for the offence under Section 448, 427, 290, 506 r/w. 34 IPC and under Section 3(1)(r)(s) and 3(2)(va) of SCs & STs (POA) Act against A1 and A2 in Cr.No.84 of 2022 of PS Bellampalli-I Town.

Brief averments of the charge sheet:-

02. The brief averments of the charge sheet are that, on 01.06.2022 at 14:00 hrs the defacto complainant Sabbani Krishna (Lw.1/Pw.1) lodged complaint before PS Bellampalli-I Town that in the united Adilabad District they have inaugurated MCPI (U) party office and Singareni Aikya Gani Karmika Sangham on 15.03.2006 at Bazar Area, Bellampalli and continuing the party activities since 17 years, but due to some reasons they have not visited the offices, taking advantage

of this, the owners of Kiran Electronic Shop Bairi Pithambar (A1) and his son Kiran(A2) damaged the compound wall, illegally entered into office, encroached the office and constructed a wall. When Pw.1 came to know about the encroachment, on 12.05.2022 at about 01:30 P.M. he went to Kiran Electronic Shop and questioned them about the damage of compound wall and encroachment, on that A1 and A2 abused him in filthy language as “mala lanjakoduka, badkav, neethoti emi kadu, nee dikkunnakada cheppuko, baajaptha kabja chestaamu inkosari adigthey champensthaamu” which was witnessed by the neighbouring shop owners. A1 and A2 have committed theft of valuable articles, flags, books, sound systems, furniture, kitchen items, photos, clothes etc. and cash of Rs.28,350/- (item Nos.1 to 17) from the office room, as such Pw.1 requested the police to take action against A1 and A2.

02(a). It is mentioned in the charge sheet that basing on the said complaint of Pw.1, the case is registered vide Cr.No.84 of 2022 under section 3(1)(r)(s) and 3(2)(va) of SCs & STs (POA) Act by SI of Police, PS Bellampalli-I Town (Lw.11). As per the proceedings of Commissioner of Police, Ramagundam, Lw.12/ACP, Bellampally was appointed as Investigating Officer who visited the scene of offence at Market Area, Bellampalli, examined the witnesses and recorded the statements of witnesses by securing mediators, prepared scene of

offence panchanama/crime details form (CDF) along with rough sketch before the mediators under videography.

02(b) It is mentioned in the charge sheet that on the request of Lw.12/Investigating Officer, Lw.10/Tahsildar, Bellampalli furnished caste particulars of Pw.1 as SC/Mala and A1 and A2 belongs to Padmashali/BC communities. Basing on the Medical Certificate of Edulla Muthyam (Lw.2) issued by Medical Officer, CHC Khanapur, the section of law i.e., 325 IPC was added to existing sections and the investigating officer filed requisition before the Court. On 10.06.2022 Lw.12/ACO, Bellampalli issued notices under section 41-A Cr.P.C. to A1 and A2 who have complied with and appeared before the Investigating Officer on 13.06.2022, during interrogation they voluntarily confessed their guilt and commission of offence, later they were instructed to attend the Court as and when required.

02(c) It is mentioned in the charge sheet that the allegation of theft of valuable articles from MCPI (U) office room by A1 and A2 is not established, as such section 380 IPC is deleted from the charge sheet. After completion of entire investigation charge sheet is filed for the offence under Sections 448, 427, 290, 506 r/w 34 IPC and Section 3(1)(r)(s) and 3(2)(va) of SCs & STs (POA) Act against A1 and A2. Hence, the charge.

Cognizance/Committal:-

3. The charge sheet is filed in this Court in view of offence under Section 3(1)(r)(s) and 3(2)(va) of SCs & STs (POA) Act which is exclusively triable by the Court of Special Judge for Trial of cases under SCs & STs (POA) Act-cum-II Additional District and Sessions Judge, Adilabad. Hence this Court took cognizance of the case U/Sec.448, 427, 294(b), 506 r/w. 34 IPC and under Section 3(1)(r)(s) and 3(2)(va) of SCs & STs (POA) Act against A1 and A2. The case is registered as special S.C.No.138 of 2022 and proceeded with by issuing summons to A1 and A2. On appearance of A1 and A2, the copies of documents are furnished to them contemplated under Sec.207 Cr.P.C.

Framing of charge:-

04. On hearing the learned Special Public Prosecutor and the learned counsel for A1 and A2, they are examined and charge framed against them under section 228 Cr.P.C for the offence under section 448, 427, 290, 506 r/w. 34 IPC and under Section 3(1)(r)(s) and 3(2)(va) of SCs & STs (POA) Act. The charge is read over and explained to A1 and A2 in their vernacular language. Having understood the same, A1 and A2 denied the offence, pleaded not guilty and claimed to be tried. A1 and A2 are defended by their counsel throughout the case.

Witnesses Examined:-

05. To prove the guilt of the accused beyond all reasonable doubt, the prosecution cited the list of witnesses i.e. Lws.1 to 12. Out of them, the complainant Lw.1/Sabbani Krishna, Lw.2/K. Raviteja and Lw.4/M. Kumaraswamy are examined as Pws.1 to 3. The evidence of Lws.3, 5 to 12 is given up since none of the material witnesses supported the prosecution case and completely turned hostile. Besides examination of Pw.1 to Pw.3, Exs.P1 to P4 documents are got marked on behalf of the prosecution.

313 Cr.P.C Examination:-

06. After completion of the prosecution evidence, as there is no incriminating material found in the evidence of prosecution witnesses against A1 and A2, the examination of A1 and A2 u/sec.313 Cr.P.C. is dispensed with.

Arguments:-

07. Heard both sides and perused the record. At the time of arguments, the Special Public Prosecutor repeated the contents of charge sheet and he submitted that during Section 161 Cr.P.C statements all the witnesses completely supported the case but turn hostile at the time of evidence before the Court, however the same is not a ground to acquit A1 and A2 and he prays to convict them. On the other hand, the counsel for A1 and A2 submitted that all the material witnesses turned hostile and all the remaining witnesses are

given up since their evidence is not required as material witness Pw.1 to Pw.3 completely turned hostile. He prays to acquit A1 and A2 for the charge framed against them. The other arguments of the learned counsel on both sides are discussed at relevant point.

Points for consideration:-

08. Now the points for consideration are :

- (i) Whether the prosecution has proved the guilt of A1 and A2 for the offence under Section 448, 427, 290, 506 r/w. 34 IPC and under Section 3(1)(r)(s) and 3(2)(va) of SCs & STs (POA) Act beyond all reasonable doubt?*
- (ii) Whether A1 and A2 can be found guilty and convicted for the offence under Sections 448, 427, 290, 506 r/w. 34 IPC and under Section 3(1)(r)(s) and 3(2)(va) of SCs & STs (POA) Act ?*
- (iii) To what result?*

Findings on Points:-

09. After hearing the arguments submitted by the learned Spl. Public Prosecutor and learned defence counsel and after appreciating the oral and documentary evidence placed by the prosecution and after consideration of the material on record, it is very clear that the offence alleged against the A1 and A2 is under sections 448, 427, 290, 506 r/w. 34 IPC and under Section 3(1)(r)(s) and 3(2)(va) of SCs & STs (POA) Act.

10. It is very clear that the prosecution mainly relied on the evidence of Pw.1 to Pw.3 and on the documents i.e., Exs.P1 to P4 to bring home the guilt of A1 and A2 beyond all reasonable doubt.

11. It is to be noted that the prosecution examined Pw.1 to Pw.3 in this case and the evidence of the remaining witnesses i.e. Lws.3, 5 to 12 is given up by the Spl. Public Prosecutor. In fact, the material witness Pw.1 made several allegations as per the complaint lodged by him with PS Bellampalli-I Town but Pw.1 has not deposed any of the allegations before the Court during his evidence. Pw.1 simply stated that he do not know the facts of this case and he never lodged complaint against A1 and A2 before PS Bellampalli-I Town. According to him, Police never examined him and not recorded his statement, A1 and A2 never trespassed in the office and never committed theft of articles of his office at any point of time and they never abused him in the name of caste and also never damaged the compound wall.

12. Pws.2 to 3 who are cited as eye witnesses to the incident deposed in one voice that they do not know the facts of the case, Pw.1 never lodged complaint against A1 and A2 before PS Bellampalli-I Town, police never examined them and not recorded their statements. According to them A1 and A2 never trespassed in the office of Pw.1 and never committed theft of articles of Pw.1 in any point of time and never abused Pw.1 in the name of caste and they

never damaged the compound wall of Pw.1's office and both of them turned hostile, they did not support the case of the prosecution in any way.

13. In view of the above evidence, it is very clear that all the material witnesses in this case deposed as if they do not know the facts of the case and police not examined them and not recorded their statements and they did not depose anything against A1 and A2 about the their involvement in the alleged incident.

14. Hence, all the material witnesses i.e. Pw.1 to Pw.3 do not depose any incriminating material against A1 and A2 specifically. Since all the material witnesses not supported the case of the prosecution, the examination of A1 and A2 under section 313 Cr.P.C. is also dispensed with.

15. The above evidence of Pw.1 to Pw.3 create doubt whether Pw.1 made any allegations against A1 and A2 in his complaint and whether the incident mentioned in the complaint was really happened. When, all the material witnesses i.e. Pw.1 to Pw.3 not supported the prosecution case, basing on their hostile evidence, it is not possible to find A1 and A2 guilty of the said charges.

16. Apart from all the above, the prosecution failed to establish the ingredients of section 448, 427, 290, 506 r/w. 34 IPC and under Section 3(1)(r)(s) and 3(2)(va) of SCs & STs (POA) Act against A1 and A2 by examining the remaining witnesses i.e., Lws.3, 5 to 12 which is

fatal to the prosecution case. If the evidence of Lws.3, 5 to 12 is there, then there is possibility to say that A1 and A2 are liable for punishment under section 448, 427, 290, 506 r/w. 34 IPC and under Section 3(1)(r)(s) and 3(2)(va) of SCs & STs (POA) Act, but Lws.3, 5 to 12 are not examined in this case to strengthen the case of the prosecution.

17. The above discussion clearly and clinchingly goes to show that the prosecution miserably failed to prove the guilt of A1 and A2 beyond all reasonable doubt for the offence under section 448, 427, 290, 506 r/w. 34 IPC and under Section 3(1)(r)(s) and 3(2)(va) of SCs & STs (POA) Act. Therefore, there is no substantial evidence to find A1 and A2 guilty as such they are entitled for acquittal. Accordingly, the points for consideration are answered that;

- i). the prosecution has not proved the guilt of A1 and A2 for the offence under Section 448, 427, 290, 506 r/w. 34 IPC and under Section 3(1)(r)(s) and 3(2)(va) of SCs & STs (POA) Act beyond all reasonable doubt and*
- ii). the A1 and A2 cannot be found guilty and convicted for the offence under Sections 448, 427, 290, 506 r/w. 34 IPC and under Section 3(1)(r)(s) and 3(2)(va) of SCs & STs (POA) Act and*
- iii). they have to be acquitted for the said offence.*

Point No.3:-

In the result, A1 and A2 are found not guilty for the offence under Sections 448, 427, 290, 506 r/w. 34 IPC and under Section 3(1)(r)(s) and 3(2)(va) of SCs & STs (POA) Act, accordingly they are

acquitted for the said offence under Section 232 Cr.P.C and they are set at liberty. The bail bonds of the accused shall be in force for a period of 6 months under Section 437(A) Cr.P.C. and thereafter the said bonds shall stands canceled. There is no property in this case.

Typed to my dictation by steno, corrected and pronounced by me in the open Court on this the 1st day of May, 2024.

*Special Judge For Trial of cases under
the SCs & STs (POA) Act-Cum-II Additional
District & Sessions Judge, Adilabad.*

APPENDIX OF EVIDENCE WITNESSES EXAMINED

For Prosecution:

Pw.1 : S. Krishna (Complainant)

Pw.2 : K. Raviteja (eye witness)

Pw.3 : M. Kumaraswamy (eye witness)

For Defence:

- None -

EXHIBITS MARKED

For Prosecution:

Ex.P1 : Signature of Pw.1 on Complaint.

Ex.P2 : Section 161 Cr.P.C. statement of Pw.1.

Ex.P3 : Section 161 Cr.P.C. statement of Pw.2.

Ex.P4 : Section 161 Cr.P.C. statement of Pw.3.

For Defence:

- Nil -

Material Objects

- Nil -

*Special Judge For Trial of cases under
the SCs & STs (POA) Act-Cum-II Additional
District & Sessions Judge, Adilabad.*

*Spl. Judge for Trial of cases under SCs & STs (POA) Act-
cum-II Addl. Dist. & Sessions Judge, Adilabad.*