

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.4876 of 2015

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ORDER :

This criminal petition is filed by the petitioners/A.1 and A.2 under Section 482 Cr.P.C seeking to quash the proceedings in Crime No.92 of 2015 of Pamidi Police Station, Anantapuram District, registered for the offence punishable under Section 323 read with 34 IPC and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Act').

2. Heard the learned counsel for the petitioner as well as the 1st respondent-State represented by the Public Prosecutor before admission and before ordering any notice to the 2nd respondent and perused the material on record.

3. A perusal of the report as well as the other material on record shows already a civil suit is pending between the parties. It also shows there is an application for survey and demarcation of the boundary of the land of the petitioners and once there is an application for survey and demarcation, the notices to be served to the boundary holders and it appears from the material, there is a dispute relating to the earlier civil suit. It is the averment from the perusal of the report that the petitioners, while demarcating the property through surveyor, the de facto complainant raised an objection, for which they abused

him in caste name and insulted. It is the contention that it is a false accusation as if they abused him in caste name in order to rope the petitioners to bring them under the provisions of the Act, 1989, and it is an abuse of process of law. The material in fact falls short for this Court to admit the application to quash the F.I.R. and stay the investigation; but for giving liberty to file any material in support of their contention before the Investigating Officer. The petitioners got liberty to file fresh application, if there is any material from police final report for not to take cognizance and to quash or in the event of cognizance taken by learned Magistrate from the police final report and chosen to commit the case to Court of Sessions and of taken cognizance by it, from the prosecution material as laid down in **State of Orissa v.**

Debendranath Padhi^[1] to file application for discharge to hear and pass appropriate orders. Needless to say, in such event, any application by the petitioners/accused filed under Rule 37 of the Criminal Rules of Practice, the learned Special Judge shall consider to permit one of the accused to represent the other accused and pass orders so permitting unless any personal appearance is required to all so to appear. Needless to observe further that, if the learned Judge concerned found that there are any grounds to frame charges for any of the offences either under Section 240 or 228 Cr.P.C., as the case may be, the further remedy is left open to the petitioners to impugn the same.

4. Accordingly, the criminal petition is disposed of.
5. Miscellaneous petitions pending, if any, shall stand dismissed

Dr. B. SIVA SANKARA RAO, J

15th June 2015.
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[\[1\]](#) (2005) 1 SCC 568