

HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.33261 OF 2014

Date:22.01.2015

Between:

Bikkina Udayasurya Bhaskara
Varaprasad and another

.. Petitioners

And

The Sate of Andhra Pradesh,
Rep., by its Principal Secretary,
Home Department, Secretariat
Buildings, Hyderabad and others

.. Respondents

HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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ORDER:

Heard learned counsel for the petitioners, learned Government Pleader for Home appearing for respondents 1 to 3, and Sri Ch. Dhanamjaya, learned counsel, representing Sri P. Anand Seshu, learned Standing Counsel for APEPDCL appearing for respondent No.4.

Petitioners 1 and 2, who are accused in a crime registered as F.I.R. No.561 of 2014 on the file of Station House Officer III Town Police Station, Rajahmundry, seeking quashing of the said crime on the ground that the complaint of the 6th respondent, which is the basis for registering the F.I.R., does not disclose the name of any officer. The 1st petitioner states that he is a Contractor working in A.P. TRANSCO and it is alleged that the 4th respondent, who is a Leader representing a particular caste organisation, has been pressurising the petitioners to remove two employees and take other two employees recommended by him. The petitioners state that they did not agree for the said suggestion which lead to the filing of the present complaint at the instance of the 6th respondent. The petitioners state that they do not know the 6th respondent nor in any way concerned with the allegations made by him and since the petitioners hardly know the 6th respondent, the very complaint filed by him under the Scheduled Castes and the

Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Act') and the allegations made by him are baseless.

Respondent No.2, who is an investigating Officer, filed counter affidavit wherein he has stated in detail in paragraph No.5 that he has conducted investigation and recorded the statements of eight witnesses, including the complainant and his friend as well as the Superintending Engineer (Operations), the 4th respondent. He further states that until and unless *prima facie* case is established by the complainant, it cannot be said that the Act is attracted to this case. It is further stated that the Call Data Records of the cell phones of the petitioners and the tower location at the time of the alleged offence are yet to be received from the Tahsildar, Rajahmundry. He assures the Court that appropriate further steps would be taken on receipt of Call Data Records.

Evidently, the investigation is almost at a fag end and as soon as the Call Data Records are received, appropriate report would be filed. At this stage, therefore, it is not just and appropriate to quash the F.I.R., however, from the investigation conducted so far, it is evident that *prima facie* case is yet to be established and in view of taking into account the totality of the circumstances, since *prima facie* case against the petitioners/accused is not yet established, it would be just and proper to dispose of the Writ Petition directing the investigating officer concerned to complete the investigation after verifying the Call Data Records and after conducting such enquiry, if necessary, file appropriate charge sheet before the jurisdictional Magistrate. However, keeping in view the facts and circumstances of the case, petitioners 1 and 2 shall not be arrested with reference to the aforesaid crime before filing of appropriate report or charge sheet before the Magistrate concerned. The petitioners shall cooperate with the investigating officer as and when called for.

With the above directions, the Writ Petition is disposed of.
There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition shall
stand closed.

VILAS V. AFZULPURKAR, J

22.01.2015

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