

HON'BLE SMT JUSTICE ANIS
CRIMINAL PETITION No.8640 OF 2012

O R D E R:

This criminal petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C'), seeking to quash the proceedings against the petitioners-A.1 to A.28 & A.31 in Cr.No.327 of 2012 of Nellore Rural Police Station for the offences punishable under Sections 143, 447, 448, 436, 427, 434, 323 & 506 read with 149 of the Indian Penal Code, 1860 (for short 'I.P.C' and Sec.3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act, 1989 (for short 'the 1989 Act').

2. The petitioners herein are A.1 to A.28 & A.31, whereas respondent No.2 is the *de facto* complainant in the above said crime. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed in the above said crime.

3. The origin of the case is that the *de facto* complainant lodged a report to the police, Nellore Rural Police Station, in the above crime against the petitioners/A.1 to A.28 & A.31 and others alleging that he belongs to Scheduled Caste community. He and one Ranimadugu Lakshmaiah are working as watchmen for the land belonging to Bathala Venkata Subba Reddy and D.V. Ramesh admeasuring Ac.31-00cents. There are some land disputes between Bathala Venkata Subbareddy and the accused. The revenue officials fixed the boundaries for the said land and in that land they raised a thatched house and took electricity connection and living there. Whiles, on 23.10.2012 at 03:00 a.m, when they heard some sounds, Ranimadugu Lakshmaiah woke up from sleep and saw the accused, who entered the house. The accused dragged them out by abusing them. They also destroyed the articles in the house. They beat him with hands and legs. A.2 to A.4 and other persons poured petrol on the house

and set fire. When they tried to interfere, all of them scolded him calling "Madiganakodaka" and beat him with hands and legs and shouted to burn him. When the neighbours C. Chenna Reddy, Hari Chandra Reddy, Ashok Reddy and others came and pacified the matter, they abused him in the name of his caste and threatened stating that he and his employer will be burnt like the house. After the incident, he informed the same to the employer D.V.Ramesh, who called for fire engine and extinguished the fire.

4. Being aggrieved by the act of the *de facto* complainant, the petitioners, who are A.1 to A.28 & A.31, filed the present petition to quash the proceedings against them, on the ground that a false case has been foisted against them with the assistance of Bathala Venkata Subba Reddy and D.V.Ramesh, who are illegally attempting to gain possession of the lands of the petitioners/A.1 to A.28 & A.31 and others, who are all owners of plots in Sy.Nos.1881, 1882 and 1883; that one Sri Devireddy Ramana Reddy and his son Kodanda Rami Reddy were the owners of the above survey numbers admeasuring Ac.66.05cents of Nellore Bit-I of Kothuru village; that after the demise of the said Ramana Reddy, Kondanda Rami Reddy and his mother Easwaramma filed declarations of their agricultural holdings pursuant to ceiling on Agricultural Land Act; that to overcome the Ceiling Act a claim was setup through Bathula Venkata Subbareddy stating that he purchased Ac.31-55cents of land in the above survey numbers under an unregistered agreement of sale deed dated 05.12.1985 from one D. Subbainna Chowdary and vendor purchased the land under the registered agreement of sale deed dated 16.04.1966 from Devi Reddy Kodanda Rami Reddy and his mother Easwaramma; that the Land Reforms Tribunal by its order dated 24.02.2010 held that the agreement of sale do not convey and confer any title and consequently, the land was included in the family holding of

Kodandarami Reddy; that Devi Reddy's family sold the land to others in different extents on different dates; that the purchasers made 300 house plots under Gram Panchayat Layout and sold to several persons from different parts of the State and also Chennai and Bangalaore and accused also have purchased the house plots and they were in possession of their respective plots; that when Bathula Venkata Subba Reddy applied for regularization of agreement of sale dated 15.12.1985 under Section 5A of the Pattadars Pass Book Act, the Mandal Revenue Officer granted validation certificate dated 10.04.1996 without following the minimum required procedure and armed with the said illegal order, the said Bathala Venkata Subba Reddy schemed to gain the lands in a dubious manner; that Bathala Venkata Subba Reddy filed W.P.No.21766 of 2010 seeking a direction against the revenue officials not to interfere with his possession; that the Revenue officials conducted a survey and fixed the boundaries of the land of Ac.31-35cents in Sy.Nos.1881/1, 1881/2 and 1881/3; that as per the orders of this Court, Tahsildar conducted the survey and passed the orders stating that he could not get the survey as he was not in possession and others in possession objected the survey; that thereafter, the said Bathula Venkata Subba Reddy filed Contempt Case No.1915 of 2010 for not conducting the survey and in that contempt case, Tahsildar filed a counter stating the same and that during the survey, the said Bathala Venkata Subba Reddy and his henchmen tried to enter into the land, which was prevented by some of the plot owners as well as the revenue officials; that said Bathala Venkata Subba Reddy filed W.P.No.13211 of 2011 to declare the action of the police and revenue officials for not taking action on the representation as illegal; that by the orders dated 29.04.2011, this Court directed the Superintendent of Police to look into the representation and take necessary action; that Bathala Venkata Subba Reddy procured the services of D.V.Ramesh, resident of

Ananthapur, who has background in settling land deals and he camped in Nellore, employed muscle men and tried to take forceful possession of the land and therefore, several plot owners filed civil suits against Bathala Venkata Subba Reddy for declaration and injunction and the same are pending; that in one case O.S.No.496 of 2012, an injunction order has been passed by the Court of I Additional Senior Civil Judge; that there was a strong rumour that Bathala Venkata Subba Reddy and D.V.Ramesh have planned to plant persons belonging to Scheduled Caste and Scheduled Tribe communities in the land and houses vacant and file cases under the 1989 Act to threaten and scare away the plot owners; that the plot in which the thatched house was there belong to one N.Ramachandra Reddy of Chennai, who raised the thatched house for the watchman; that later, the watchman stopped and the hut was vacant; that the said house was set on fire by the said Bathala Venkata Subba Reddy, D.V.Ramesh and his henchmen and obtained the services of the *de facto* complainant and his friends, who belong to Scheduled Caste community and filed the false case against them.

It is also stated by the petitioners/A.1 to A.28 & A.31 that there are 35 houses built in the colony; that Bathala Venkata Subba Reddy and D.V.Ramesh are not in possession of the land; that the *de facto* complainant has no acquaintance with the accused; that some of the accused are the residents of Warangal, Sanga Reddy and other districts; that the accused never met the *de facto* complainant and therefore, recognizing thirty persons during the night time and remembering their names is highly impossible and improbable; that the allegations in the complaint do not attract the provisions of Sec.3(x) of the 1989 Act; that the allegations of abusing in the name of caste is not attributed to any particular person; that it is a sweeping allegation; that the alleged incident happened at 03:00 a.m

and the complaint was filed at 06:30 p.m, after due deliberations and finally prayed the Court to quash the proceedings against them in the above said crime.

5. The learned counsel for the petitioners-A.1 to A.28 & A.31 argued that there are civil disputes about the land and all the accused purchased the plots and are in possession of the same; that the land in dispute is situated in Andhra Pradesh and Tamilnadu and the alleged incident took place at about 3:00 a.m; that naming of thirty people by the *de facto* complainant is humanly impossible and further, prior to that they never met the *de facto* complainant; that already twenty five persons filed civil suits and the same are pending at Courts of Nellore, regarding the subject matter of the present petition; that Bathala Venkata Subba Reddy and D.V.Ramesh, who are claiming the property are not in possession of the property and they are illegally attempting to gain possession of the property, which is in possession of the accused; that originally, the land belongs to one Devireddy Ramana Reddy and his son Kodanda Rami Reddy; and that Bathala Venkata Subba Reddy and D.V.Ramesh are claiming the property under an unregistered agreement of sale dated 05.12.1985. It is also argued that the said Bathala Venkata Subba Reddy and D.V.Ramesh procured the service of the *de facto* complainant to initiate a criminal case under the 1989 Act against the accused to threaten and scare them to send away from the plots and take possession over them; that in O.S.No.469 of 2012, an injunction order was also obtained against Bathala Venkata Subba Reddy; that in spite of the injunction orders, with the help of the *de facto* complainant this false case has been foisted; that the petitioners/A.1 to A.28 & A.31 are innocent and not committed any offence and provisions of the 1989 Act does not attract and it is a clear case of abuse of process of law and prayed the Court to quash the

proceedings against the petitioners/A.1 to A.28 & A.31 in Cr.No.327 of 2012 of Nellore Rural Police Station.

6. On the other hand, the Public Prosecutor appearing for the State of Andhra Pradesh argued that the complaint was registered after receiving the written complaint from the *de facto* complainant and thereafter on 21.03.2012, the First Information Report in Cr.No.357 of 2012 was issued on the ground that all the accused attacked the *de facto* complainant and another person and also trespassed into their houses, abused them in filthy language and insulted the *de facto* complainant, who belongs to Scheduled Caste, as such *prima facie*, there is a case for the offence punishable under Section 3(1)(x) of the 1989 Act. It is also argued that in the presence of independent witnesses, all the accused trespassed into the house of the *de facto* complainant and R.Lakshmaiah and assaulted them and criminally intimidated and as such, the police rightly registered the case against the accused; that whether the accused trespassed into the house and attacked the *de facto* complainant on the alleged date of incident is to be decided during the trial and at this stage, there are no grounds to quash the proceedings and therefore, prayed the Court to dismiss the petition.

7. Now, the point for determination is:

Whether the petitioners/A.1 to A.28 & A.31 has made out any valid or sufficient grounds for quashing the proceedings in Cr.No.327 of 2012 of Nellore Rural Police Station against them as prayed for or not?

8. **POINT:** As per the record, the *de facto* complainant and one R.Lakshmaiah were working as watchmen in the lands of Bathala Venkata Subba Reddy and D.V.Ramesh for the land admeasuring Ac.31-00cents situated near the Tailors Colony. An the date of incident at about 3:00 a.m, all the accused entered into the house of

the *de facto* complainant, dragged them out, abused them and destroyed their articles. As such, police registered the case against the petitioners/A.1 to A.28 & A.31 and others.

9. The contention of the petitioners is that this case is purely a civil case. All the accused filed civil cases before the I Additional Senior Civil Judge regarding the subject matter in this petition. Further, the Tahsildar Nellore gave a report to this Court in W.P.No.21766 of 2010, who categorically stated that Bathala Venkata Subba Reddy is not in the possession and enjoyment of Ac.31-35cents of land. Further, discreet enquiries revealed that the Bathala Venkata Subba Reddy obtained the title deeds by submitting the fraudulent document with Mandal Revenue Officer, Nellore, and Tahsildar, Nellore recommended for cancellation of the same. Admittedly, these aspects cannot be decided in the quash petition and regular investigation has to be done by the police.

10. The contention of the petitioners/A.1 to A.28 & A.31 is alleged incident has taken place at 3:00 a.m on 23.10.2012 and at that time, presence of public cannot be believed. To prove the offence punishable under Section 3(i)(x) of the 1989 Act, the accused must intentionally insult or intimidate with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view. Admittedly, the time when the incident was happened is 03:00 a.m. Therefore, question of presence of witnesses at the wee hours cannot be believed

prima facie and further, no person will be present outside at that time to prove that all the accused intentionally insulted or intimidated the *de facto* complainant, who belongs to Scheduled Caste in any place within the public view. Therefore, it can be held that trying the petitioners/A.1 to A.28 & A.31 for the offence punishable under Section 3(i)(x) of the 1989 Act is abuse of process of law.

11. In view of the above, the proceeding against the petitioners—A.1 to A.28 & A.31 for the offence punishable under Section (3)(i)(x) of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is hereby quashed and the criminal petition to that extent is allowed. But, Insofar as proceedings against the petitioners-A.1 to A.28 & A.31 for the offences punishable under Sections 143, 447, 448, 436, 427, 434, 323 & 506 read with 149 of I.P.C are concerned, the criminal petition is dismissed. The Investigating Officer can proceed with investigation against the petitioners-A.1 to A.28 & A.31 in sofaras offences punishable under Sections 143, 447, 448, 436, 427, 434, 323 & 506 read with 149 of I.P.C.

12. Accordingly, the Criminal Petition is partly allowed.

13. The miscellaneous petitions, if any, pending in the Criminal Petition shall stand closed.

ANIS, J

Date: 11.02.2015

sr