

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.8110 of 2015

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ORDER :

This criminal petition is filed by the petitioner/accused under Section 482 Cr.P.C seeking to quash the proceedings in Crime No.145 of 2015 of Tadepalli Police Station, Guntur District, registered for the offences punishable under Sections 353, 506 and 188 IPC.

2. Heard the learned counsel for the petitioner and 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. The sum and substance of the accusation in the report of the 2nd respondent-Assistant Sub Inspector of Police, Tadepalli Police Station is that as per the orders of the learned Principal Junior Civil Judge, Mangalagiri, in execution for possession of the property pursuant to the decree in O.S.No.3 of 2008 vide order dated 09.04.2015 in E.P.No.23 of 2015 providing police aid for delivery of the subject property (Order XXI Rule 35 C.P.C.), the 2nd respondent along with head constable, two constables and one women constable together went to the site to render the police assistance for facilitating Amin of the Court to the decree holders from the Judgment debtors, who are in possession, and when they went there in discharge of official duty, the Judgment Debtor No.1 i.e., petitioner herein at the site drowsed herself with kerosene in the tin in her hand and there from prevented from discharge their duty.

4. The crime registered is for the offences punishable under Sections 353, 506 and 188 IPC by the Tadepalli Police Station on the same day. So far as the offence under Section 353 IPC concerned, there must be assault or criminal force. Criminal force is defined under

Section 349 IPC. Assault or criminal force to prevent an officer or public servant from discharging of his duties tantamounts to a cognizable offence. A reading of the F.I.R. on its face shows no way attracts of the offence under Section 353 IPC to take cognizance in registering the crime for cognizable offence for Section 353 IPC along with other non-cognizable offence under Section 506 IPC, leave about Section 188 IPC. So far as Section 188 IPC is concerned, there is a bar to maintain a report in registering of a crime, by Section 195 sub section (1) (a) Cr.P.C. but for on private complaint, though it is not for registration of crime and investigation, but for taking cognizance practically with no purpose. Having regard to the above, the very crime registered is unsustainable and thereby the F.I.R. proceedings are liable to be quashed.

5. In view of the above observation, this criminal petition is allowed and all the proceedings relating to F.I.R.No.145 of 2015 of Tadepalli Police Station, Guntur District, are quashed against the petitioner/accused. The bail bonds of the petitioner/accused, if any, shall stand cancelled.

6. Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

22nd September 2015.

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