

THE HON'BLE SRI JUSTICE Dr B. SIVA SANKARA RAO

CRL.P.No.16107 of 2014

ORDER:

This Criminal Petition is filed by the petitioners/A.1 to A.5 under Section 482 Cr.P.C. seeking to quash the proceedings in C.C.No.407 of 2014 on the file of the learned Additional Junior Civil Judge-cum-Judicial First Class Magistrate, Bapatla, where the learned Magistrate has taken cognizance for the offence punishable under Sections 323 and 506 IPC r/w 34 IPC, which is outcome of report of 1st respondent-de facto complainant in Crime No.230 of 2014 of Bapatla town Police Station, Guntur District.

2. Though notice even served on the 1st respondent, which was acknowledged, he failed to appear, and hence, taken as heard and heard the 2nd respondent-State represented by Public Prosecutor as well as learned counsel for the petitioners/A.1 to A.5 and perused the material on record.

3. The report in registering the crime reads that on 7.9.2014 at about 21.30 hours besides Food & Science College, opposite Sai Baba temple, Bapatla, the accused persons came to the de facto complainant-Kagitha Ashok, LW.1, gave a statement at GAH, Bapatla and stating that on 07.09.2014, among 4 accused, A.1-Penumatcha Sri Ranga Raju beaten one Isaak-LW.2 with hands on his neck and chest and in the meantime, when LW.1 intervened, then all the accused persons caught hold of his neck and beaten him on chest and later, the remaining accused also beat him with hands and legs. As the offence is non-cognizable, it is after taken permission from the court of the Additional Judicial First Class Magistrate, Bapatla, the crime is registered (as per 155(2) Cr.P.C) for the offence punishable under sections 323 and 506 r/w 34 IPC. The police final report shows that there were property disputes between A1 and LW.4 by name Darsi

Poli Raju regarding vacant site of 15 cents, besides Food & Science college, Bapatla town when LWs.1 and 2, i.e., de facto complainant-Ashok and Isaac supra, tried to occupy the disputed land on the advise of LW.3-Darsi Srinivasa Rao, S/o Poli Raju-LW.4. The first accused also advised one Chirala Chittemma to occupy the same, and in that course, the A.1 to A.5, Chirala Chittemma, Chirala Koti Ratnam, Chirala Venata Ramana and Chirala Satyavathi are formed into one group and so also LWs.1 to 4 referred supra besides Darsi Venkata Swami are formed into another group to occupy the disputed site, and in that course, there was scuffle between the two groups and among them, LWs. 3 and 4 and Darsi Venakta Swami threatened Chirala Chittemma uttered that if she does not vacate the disputed site, LW.3, 4 and Darsi Venkata Swami will kill Chirala Chittemma. Subsequently, A.1 to A.5 also beat LWs.1 and 2 with hands and that was witnessed by LWs.5 and 6. Immediately, the accused shifted Chirala Chittemma through a car to Area Hospital, Bapatla and admitted there for treatment and based on hospital intimation on 8.9.2014 at about 9.45 am, LW.9-Sub Inspector of Police recorded the statements of LW.1 and obtained Court permission for the non-cognizable offence and the crime is registered, and thereby, on 10.09.2014 at 17.30 hours submitted F.I.Rs to all the concerned officers and took up investigation. As per L.W.8-Dr Praveen, who treated LWs.1 and 2 stated that both LWs.1 and 2 did not receive any external injuries.

4. The contention of the quash petitioners in the oral submissions as well as ground for quashing are that, it is a false complaint and as a counterblast to the occurrence, where Chirala Chittemma was beaten and they came to her rescue, to prevent the trespass by LWs.1 to 4 supra into the property, which is in the occupation of Chirala Chittemma and the police already registered crime No.229 of 2014 after recording the statement of Chittemma for the offence under section 323 and 506 of IPC and on the date of

offence, the 3rd petitioner is 9th moth pregnant and the question of her participation and her presence does not arise and she is also even roped into the case falsely, and thereby, the proceedings are liable to be quashed.

5. A perusal of the record shows that there are cases and counter cases in relation to the property disputes in order to evict or dispossess Chittemma. As can be seen from the investigation, it *prima facie* shows the accused persons are formed into unlawful assembly. It is premature to express any opinion or to quash the proceedings.

6. Having regard to the above, the grounds falls short for this Court from the material on record to quash the calendar case proceedings. However, even none of the observations herein for dismissal of the application shall prejudice their right of defence before the trial Court for simultaneous trial of case and counter case taken cognizance, if any to pronounce judgment at a time, if no grounds to discharge or stop proceedings. It is needless to say among the petitioners/A.1 to A.5, if any application filed under Rule 37 of the Criminal Procedure Code, for one to represent the others, the learned Magistrate shall hear and permit them with necessary conditions as and when their personal appearance is required.

7. Accordingly, this Criminal Petition is disposed of. Miscellaneous petitions, if any pending in this Criminal Petition, shall stand closed.

JUSTICE Dr B. SIVA SANKARA RAO.

Date : 02-11-2015

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