

HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Criminal Petition No.3909 of 2014

ORDER:

In this petition filed under Section 482 Cr.P.C., petitioner/accused seeks to quash the proceedings in Cr.No.64 of 2013 of Araku Valley PS, Visakhapatnam District.

2) On the report given by the defacto complainant, the police of Araku Valley PS registered Cr.No.64 of 2013 against the accused for the offence under Section 3 (1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act'). The accusation is that defacto complainant belongs to Valmiki ST Caste and on 13.01.2013 while he was passing through Hermon Prayer Hall the accused who was the Pastor was making illegal construction of Prayer Hall in the land of Mandlyakeddi Gowramma and when the complainant questioned his highhanded acts, the accused abused him by his caste name and investigation is reported to be pending.

3) Denying the FIR allegations, learned counsel for petitioner/accused pleaded for quashment mainly on the submission that there is a dispute with regard to site on which Prayer Hall was constructed inasmuch as Gowramma along with her supporters including complainant tried to take forcible possession of the present site as if it has been purchased by her husband who is a non-tribal and she filed W.P.No.6765 of 2009 against the Government and accused for a direction to the Government to initiate action against the accused and Church

authorities to deliver the land measuring 576 square yards in Sy.No.48/P situated at Pedalabudu village of Araku Valley Gram Panchayat, Visakhapatnam District and the High Court disposed of the said writ petition directing the Government to conduct necessary enquiry and pass appropriate orders and thereafter, the Tahsildar Araku Valley in violation of the High Court order passed an encroachment order on 17.07.2010 without giving notice and opportunity to the Church authorities and so, the Devotees Association filed W.P.No.33731 of 2010 wherein *status quo* order was issued with regard to land in question. Boring grudge the said Gowramma with the help of *defacto* complainant got registered the present crime against the accused with false allegations. Learned counsel further submitted that according to *defacto* complainant, incident took place on 08.01.2013 but he lodged the report belatedly on 03.09.2013 and there is no explanation for the delay. Hence, the inordinate delay itself falsifies the case of the prosecution. He submitted that when criminal proceedings are manifestly infested with *mala fides*, the Court has power to quash the proceedings. In this regard, he relied upon the decision reported in ***Dr.B.Lakshmi and others v. State of Andhra Pradesh and another***^[1]. He thus prayed to quash the proceedings.

4) Notice served on second respondent/complainant but there is no representation for him.

5) Learned Public Prosecutor opposed the petition on the submission that irrespective of civil litigation the crime relates to

the abuse made by the accused in the caste name of the complainant and so the truth or falsity of the complaint allegations will be known only after thorough investigation and therefore petition may be dismissed.

6) In the light of above rival contentions, the point for determination is:

“Whether there are merits in this petition to allow?”

7) **POINT:** As per complaint allegations on 08.01.2013 when the complainant was proceeding through Hermon Prayer Hall, the accused who occupied the land of Mandlyakeddi Gowramma constructed Prayer Hall and when he questioned his highhanded acts the accused abused him by his caste name as “*Pora Konda Vedava, Lamdi Kodaka, Sanyasi Vedava*” and thus insulted the complainant in the name of his caste Tribe. Though Gowramma and others wanted to compromise the issue between him and accused within a month they could not do anything and therefore, he filed the complaint. Be that it may, the record filed by the petitioner/accused would show that earlier Mandlyakeddi Gowramma filed W.P.No.6765 of 2009 against the Government, accused and Berahcah Church Ministries seeking a writ directing the Government and SHO, Araku Valley to initiate action against the present accused and Church authorities to direct them to deliver the land measuring 576 square yards in Sy.No.48/P. After hearing all the parties, the High Court passed an order to the effect that since dispute was with regard to the title of the land,

respondents 1 and 2 therein may conduct necessary enquiry and pass appropriate orders immediately and if the action was initiated under A.P. Land Encroachment Act, notice may be issued to all concerned.

8) Thus, admittedly there was a dispute over the subject site where the Church was being constructed. In this back drop when the FIR is perused, as per the *defacto* complainant the incident took place on 08.01.2013 but he lodged the report on 03.09.2013 i.e. with an enormous delay of about eight months. Of course, *defacto* complainant tried to explain the delay by stating that Gowramma and others tried to compromise the issue for one month but they could not effect compromise and hence delay. In view of pending litigation between the parties, the said explanation cannot be believed. It appears that with a *mala fide* intention the present crime was got registered by Gowramma through defacto complainant. Hence, criminal proceedings are nothing but abuse of process of law.

9) In ***State of Haryana and others v. Bhajan Lal and others***^[2] Apex Court formulated certain principles for quashment of proceedings. One of such principles is thus:

“(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

The present crime proceedings are also nothing but offshoot of the land dispute between the parties. Hence, continuation of

those proceedings will amount to abuse of process of law.

10) Hence, this Criminal Petition is allowed and proceedings in Cr.No.64 of 2013 of Araku Valley PS, Visakhapatnam District are hereby quashed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 16.03.2015

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[\[1\]](#) 2012 (2) ALD (CrI.) 655 (AP)

[\[2\]](#) AIR 1992 SC 604.