

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.5085 of 2015

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ORDER :

This criminal petition is filed by the petitioners/A.1 and A.2 under Section 482 Cr.P.C seeking to quash the proceedings in C.C.No.344 of 2015 on the file of the XIV Additional Chief Metropolitan Magistrate, Hyderabad, for the offences punishable under Sections 448 and 341 read with 34 IPC.

2. Heard the learned counsel for the petitioners as well as the 2nd respondent-State represented by the Public Prosecutor before admission and before ordering any notice to the 1st respondent and perused the material on record.

3. The contention of the learned counsel for the petitioners is that the *de facto* complainant-1st respondent herein was tenant under the petitioners' premises. Undisputedly, the lease was expired long back, having voluntarily vacated on 07.01.2015 presented a false report on 25.02.2015 as if the accused persons, who are petitioners herein along with other unsocial elements forcibly thrown out the tent house material from the premises, in which a tent house is running, by denying even after expiry of lease, no doubt without renewal from the petitioners and without payment of the due amount.

4. A perusal of the final report filed by the police shows

that the material falls short for this Court to admit, by giving credence to the allegation that too no scrap of any receipt even filed to say voluntarily vacated and no doubt a receipt dated 07.01.2015 filed showing not even vacated the premises but undertaking to vacate the premises within twenty days, even to appreciate the contention.

5. As the material falls short for this Court to admit the application, giving liberty to the petitioners to file a petition under Section 258 Cr.P.C. before the learned Magistrate for no grounds to sustain accusation and for stoppage of proceedings; and the learned Magistrate to decide only from the prosecution material as laid down by the Apex Court in **State of Orissa v. Debendranath Padhi**^[1] and pass appropriate orders. Needless to say, in the event of filing an application by the petitioners Rule 37 Cr.P.C., the learned Magistrate shall consider to permit the 2nd petitioner to represent the 1st petitioner, since a senior citizen claiming as suffering from ill-health, and pass orders.

6. With the above observations, this criminal petition is disposed of.

7. Miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

22nd June 2015.

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[\[1\]](#) (2005) 1 SCC 568