

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.14763 OF 2016

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in Crime No.108 of 2016 on the file of Gudur Police Station, Warangal District, registered for the offence punishable under Section 353 read with 34 of Indian Penal Code (for short "I.P.C.") on the ground that the petitioners are tribals and they have not assaulted the defacto complainant while discharging his duties.

The allegation made in the complaint is that when the defacto complainant along with others camped at compartment Nos.987 and 988, the petitioners allegedly assaulted them.

Sri Jogam Tejavath, learned counsel for the petitioners, contended that the present complaint was given only to harass the petitioners. It is further contended that the petitioners were given lands by Integrated Tribal Development Agency and necessary proceedings were issued by the District Committee and the copies of the certificates are filed to show that they are in possession of the property.

As per the material available on record, Sri Kotam Ram Chandraiah, Jabba Yellaiah and Purka Papaiah filed the suit No.76 of 1992 before Junior Civil Judge, Narsampet for grant of permanent injunction, but the same was ended in dismissal on the ground that they have failed to prove their possession. However, certificates were issued to the petitioners subsequent to promulgation of ROFR Act.

Even though, the petitioners are in possession of the property, when the defactao complainant just sat in the land, petitioners are not supposed to assault him. The allegation made in the complaint constitute an offence punishable under section referred above, *prima facie*, if proved; the truth or otherwise of the allegations cannot be gone into in a petition filed under Section 482 of Cr.P.C. Hence, I find *prima facie* material against the petitioners for the offence referred above and it is not a fit case to quash the proceedings in Crime No.108 of 2016 on the file of Gudur Police Station, Warangal District. However, police are directed to follow the procedure laid down in Section 41-A of Cr.P.C. and guidelines formulated by the Apex Court in “**Arnesh Kuamr v. State of Bihar and another**¹”

With the above directions, the petition is disposed of. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

Date:19.10.2016
Ksp

¹ (2014) 8 SCC 273