

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.14967 OF 2016

ORDER:

This criminal petition, under Section 482 of the Code of Criminal Procedure, 1973 to quash the proceedings in Cr.No.87 of 2016 of Vetapalem Police Station, Prakasham District, registered against the petitioners for the offence punishable under Sections 379, 427, 341, 323, 506 read with Section 34 of Indian Penal Code, 1860.

Based on the complaint of Meruga Rambabu, second respondent herein, the police registered the above crime and in the complaint the second respondent made several allegations against the petitioners regarding the incident took place on 21.09.2016 at about 3.30 PM, causing damage to the property of cable operators, again on 23.09.2016 on the instructions of cable operator, they went to Potti Subbaiah Palem Church at about 10.00 AM and arranged ladder to electric poles and while connecting cables to different houses, the petitioners obstructed them along with females, armed with sickles, raising cries, pulled the cables. The second respondent and others while on ladder, to give cable connection, they pulled the ladder and made them to fell down and sustained injuries, and thereupon, threatened to create while declaring that they will not allow them to operate cable network in the Village.

The main contention of the petitioners before this Court is that there was a dispute regarding Crystal Sea Food between the Management and the Villagers and that the cable network is

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subsidiary of Crystal Sea Foods and by their influence, the Villagers are not enjoying cable network for three months and thereafter Villagers contacted with another cable operator and got cable network to the Village. But at the insistence of Crystal Sea Food Management, the Villagers were called to the Police Station by the Circle Inspector of Police, Cheerala Rural ignoring the Sub-Inspector of Police, Vetapalem PS, abused the elders of the Village as 'Arey and Orey' and that they complained the same to the concerned authorities on 12.09.2016.

Thus, it is evident from the material on record that there was a dispute with regard to cable network operation in the Village and the same may cause either to commit the present offence or to foist a false case against the petitioners. But that cannot be decided, at this stage, while exercising jurisdiction under Section 482 Cr.P.C., since it is a question of fact i.e., motive, which is relevant under Section 8 of the Indian Evidence Act.

Therefore, taking into consideration of the present facts of the case, it is difficult to exercise jurisdiction under Section 482 Cr.P.C. to quash the proceedings in the above crime and consequently, the criminal petition is liable to be dismissed.

However, the petitioners are apprehending arrest in connection with the above crime. But this Court cannot pass any order directing the police not to arrest, since it amounts to grant of pre arrest bail. But a direction is given to the SHO, Vetapalem PS, to follow the procedure provided under Section

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41-A Cr.P.C. and guidelines laid down in **ARNESH KUMAR V. STATE OF BIHAR**¹ before effecting the arrest of the petitioners.

With the above direction, the criminal petition is disposed of.

Miscellaneous petitions, if any, pending in this criminal petition, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 21.10.2016
BV

Note:

Issue CC by 25.10.2016.

b/o.BV

