

**THE HONOURABLE SRI JUSTICE RAJA ELANGO**

**CRIMINAL PETITION No.5366 of 2016**

**ORDER:**

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1. This Criminal Petition is filed by the petitioner-de facto complainant seeking a direction to the Judicial First Class Magistrate, Kotabommali, Srikakulam District to dispose of the petition filed by the petitioner viz., PR No.2123 of 2009 in Crime No.52 of 2007.

2. Brief facts of the case are as follows:

The petitioner participated in the auction conducted by the Panchayat Officer and Mandal Development Officer, Kotabommali on 13.10.2006 for fishing in five tanks situated in Nimmada Gram Panchayat. He became the successful bidder in the auction. On 2.5.2007 at about 10 a.m., while the petitioner and his labour were proceeding towards the tank for catching the fish and while they were crossing the house of A1, he abused the petitioner in the name of caste, forcibly grabbed the net from the petitioner, threw away the same, caught hold of his neck, pushed him and threatened him. On the complaint lodged by the petitioner, a case in Crime No.52 of 2007 was registered against the accused for the offence punishable under Section 3(1)(x) of SCs & STs (POA) Act and Section 506 r/w 34 IPC. Thereafter, the police referred the complaint as mistake of fact even though the petitioner and other witnesses were examined under Section 164 Cr.P.C. during the course of investigation. On the notice issued to the petitioner, he filed an application under Section 190 r/w 200 Cr.P.C. and the same is pending in PR No.2123 of 2009 and till date, the Court below has not taken the sworn statement of the petitioner or any steps to proceed with the case.

3. Heard and perused the material available on record, more particularly the statement given by the petitioner under Section 164 Cr.P.C.

4. Considering the facts and circumstances of the case, the learned Judicial First Class Magistrate, Kotabommali, Srikakulam District is directed to proceed with the application filed by the petitioner viz., PR No.2123 of 2009 and dispose of the same in accordance with law, within a period of six months from the date of receipt of a copy of this order.

5. Accordingly, the Criminal Petition is disposed of. Miscellaneous petitions pending, if any, shall stand closed.

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**JUSTICE RAJA ELANGO**

Dated: 18<sup>th</sup> April, 2016

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