

THE HON'BLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.41590 OF 2016

ORDER:

The writ petition is filed by the petitioners seeking a writ of mandamus directing to quash the F.I.R.No.162 of 2016 registered on the file of the II Town Police Station, Tenali, lodged by the fourth respondent as illegal and arbitrary.

Heard and perused the material.

Learned counsel for the petitioners submits that the crime is registered against the petitioners for the offences under Sections 353, 341, 323, 506 IPC read with Section 34 IPC. He submits that the allegations against the petitioners herein are that they threatened the fourth respondent with dire consequences, abused him and his attender, beat with hands and also wrongfully restrained him from the office. He submits that the offence under Section 353 IPC is not attracted since the fourth respondent cannot be termed as Government servant, more particularly in view of the stand taken by the Endowments Department in the counter affidavit filed in other writ petition that the fourth respondent is not a public servant under Section 21 of IPC. Hence, he prays this Court to drop the offence under Section 353 IPC against the petitioners.

This Court is of the view that it is the duty of the investigating officer to decide whether the petitioners can be prosecuted under Section 353 IPC after ascertaining whether the fourth respondent is a public servant or not, as per the provisions of the law and to file final report, if any, in accordance with law.

.The writ petition is accordingly disposed of. Consequently, miscellaneous petitions, if any shall also stand disposed of.

JUSTICE RAJA ELANGO

30.11.2016
pln