

THE HONOURABLE SRI JUSTICE RAJA ELANGO

Writ Petition No.38935 of 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking to quash the proceedings in F.I.R. No.126 of 2016 on the file of Peddapalli Police Station, Karimnagar District.

2. Heard and perused the material available on record.

3. The learned counsel for petitioners submits that 1st petitioner is the Town Planning Officer and the 2nd petitioner is an employee in Nagarapanchayat of Peddapalli. He further submits that even if the entire complaint is to be admitted, no offence is made out. The petitioners being employees are having statutory protection as they have acted bonafidely in accordance with law and the very prosecution is not maintainable. The offences alleged are mischief, trespass etc., which are property offences. When the illegal constructions are demolished following due process of law, none of the offences would attract. The person who made the complaint is the affected party on account of the act of demolition of his illegal constructions and he has no right to initiate the criminal prosecution as there is *mens rea*.

4. Learned Assistant Government Pleader for Home submitted that on the basis of the said complaint, a case was registered against

the petitioners and respondent No.3 is investigating the matter in accordance with law.

5. Considering the facts and circumstances of the case and the grievance of the petitioners, without expressing any opinion on merits, respondent No.3 is hereby directed to complete the investigation in the aforementioned crime and file a final report, in accordance with law in either way, without arresting the petitioners. However, the petitioners shall appear before the investigating officer as and when required for the purpose of investigation. In case any charge sheet is filed and summons are received by the petitioners, they shall appear before the Court concerned and execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with one surety for the like sum each for their future appearance.

6. With the above direction, the Writ Petition is disposed of. There shall be no order as to costs.

7. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE RAJA ELANGO

11.11.2016

SKMR