

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL PETITION No.482 OF 2017

ORDER:

The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.') requesting the Court to quash the First Information Report in Crime No.01 of 2017 of P.T.M. Police Station, PTM Mandal, Chittoor District.

2. Petitioners were arraigned as A.1 to A.5 on the basis of a complaint lodged by the 2nd respondent – Sarpanch of Madumuru Gram Panchayat of the same Mandal, alleging the offences punishable under Sections 353, 341 and 506 read with 34 IPC.

3. The further allegation is that when the officials of department concerned are going to conduct Janmabhoomi programme in Madumuru Village, the petitioners herein obstructed them in performing their official duties by laying the stones, blocking the way, and also laying dry barbed bushes and thus, thereby prevented them from performing their duties and even threatened them that they should not hold Janmabhoomi Programme.

4. Sri Gade Venkateswara Rao, learned counsel for the petitioners, would submit that the complainant cannot be construed as public servant basing on the ruling relied on by him rendered by the Hon'ble Single Judge of this Court in Konkati Narayana v.

Balakanti Veerayya¹, on that ground seeks to quash the First Information Report.

5. Learned Additional Public Prosecutor for the State of Andhra Pradesh would represent that though, the offence punishable under Section 353 was quashed, there are other offences punishable under Sections 341, 506 read with 34 IPC shown in First Information Report. Next submission is Sarpanch was obstructed from conducting Janmabhoomi programme of the aforesaid village and thus, there is sustainable material at this stage for the Investigating Officer to proceed with the investigation.

6. Except the First Information Report, which contains the complaint, no other material is available, at this stage. Certainly, it cannot be said that there is no *prima facie* material even looking at the complaint lodged by the 2nd respondent. It is no doubt true that the description of the public servants is not mentioned in the complaint, but that cannot be a ground to throw away the complaint at this stage. There is *prima facie* material to proceed with the investigation and therefore, the present petition is liable to be dismissed.

7. Accordingly, the Criminal Petition is dismissed at the stage of admission.

¹ 1958 Law Suit (AP) 84

8. At this stage, learned Additional Public Prosecutor made a request to direct the Investigating Officer to adhere to the provisions of Section 41A of the Cr.P.C.

9. It is needless to observe that it is a mandatory provision and the Investigating Officer should resort to the procedure prescribed by the Cr.P.C.

Consequently, Miscellaneous Petitions, if any, pending in this petition shall stand closed.

Date:24.01.2017
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JUSTICE A.SHANKAR NARAYANA

