

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1819 OF 2017

ORDR:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code'), is filed by the petitioners - accused Nos.1 & 2 seeking to quash the proceedings against them in the First Information Report in Crime No.326 of 2016 on the file of Amalapuram Town P.S., East Godavari District.

2. The petitioners, who are arraigned as accused Nos.1 &2, alleged to have committed the offences punishable under Sections 506 & 109 of IPC and under Section 3 (1) (s) of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 .

3. Heard Sri Nimmagadda Satyanarayana, the learned counsel for the petitioners and the learned Additional Public Prosecutor for the State of Andhra Pradesh.

4. The main submission of the learned counsel for the petitioners has been that the petitioners are falsely implicated and he takes support from the order passed by this Court in Writ Petition No.22727 of 2016 filed by the wife of the 1st petitioner – Katta Satyanarayanamma, against the 2nd respondent, arraying him as 3rd respondent in the writ petition seeking Mandamus to declare the action of Amalapuram Municipality by its Commissioner, 2nd respondent therein, in seeking to dispossess the petitioner therein

for the purpose of laying road across the vacant site of the petitioner therein situated in an extent of 58.5 sq. yards in R.S. No.455/1A of Suryanagar, Amalapuram Town, East Godavari District, without initiating the proceedings under the Land Acquisition Act and following the procedure as contemplated under Section 42 of the A.P. Municipalities Act, 1965 as wholly illegal, arbitrary and violative of Articles 14, 21 & 300-A of the Constitution of India, and consequently to direct the 2nd respondent therein to follow due process of law in the interest of justice.

5. This Court, while disposing of the said writ petition, on 13.7.2016, basing on the submission made by the learned Standing Counsel for the 2nd respondent Municipality that there was no proposal for laying the road or widening the road, directed the authorities to follow due process of law if they intend to take any steps either with regard to laying of the road or widening the road.

6. Learned counsel for the petitioners would submit that in view of laying of road, the *de facto* complainant since failed in his attempt threatened the petitioners that he would foist a false case under the Special Act as he belongs to Scheduled Caste and in that regard even the petitioners have made an application to the Station House Officer, Amalapuram Town P.S., East Godavari District on 22.6.2016, complaining the same and also expressing that if there would be any harm to them, their properties and family members in the hands of the 2nd respondent and his followers, the police would be responsible.

7. Learned counsel for the petitioners would submit that the present complaint was lodged on 26.9.2016, thus, three months after the application was made by the petitioners to the Station House Officer. The said complaint was lodged with all false allegations and, therefore, they sought to quash the proceedings.

8. Learned Additional Public Prosecutor for the State of Andhra Pradesh, would strongly resist the request on the ground that the complaint, at this stage, would make out allegations as to the commission of cognizable offence, more particularly, under the provisions of the Special Act. Therefore, the truth or otherwise of the allegations leveled by the petitioners herein in the form of defence can only be examined during investigation.

9. Now, the short point is, Whether the order in the writ petition and the application made to the Station House Officer by the petitioners dated 22.6.2016, would have any significance in deciding the request made herein.

10. Nothing more is required except referring to the complaint where the petitioners alleged to have abused by touching the name of the caste of the 2nd respondent and abuses occurring in the complaint constituting allegations, prima facie, making out a case of commission of cognizable offence. Therefore, it is difficult at this stage to quash the proceedings under Section 482 of the Code.

11. So far as the truth or otherwise of the defence taken by the petitioners is concerned, it is left open to the petitioners to agitate submit the same before the Investigating Officer.

12. The Criminal Petition is, therefore, dismissed as it is difficult to view that the investigation would amount to abuse of process of law.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition stand closed.

A. SHANKAR NARAYANA, J

Dt. 14.03.2017
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