

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1360 OF 2017

ORDER:

The present Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code') requesting to quash the First Information Report in Crime No.123 of 2016 of Velgodu Police Station, Kurnool District.

2. The petitioners alleged to have committed the offences punishable under Sections 447, 427, 324 read with 34 IPC and Sections 3 (1) (r) (s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

3. Sri C. Prakash Reddy, learned counsel for the petitioners, would submit that the *de facto* complainant, who is respondent No.2 herein, does not belong to Scheduled Caste and the Community, Nativity and Date of Birth Certificate issued by Tahsildar, Velgodu Mandal would show that Karrella Chinna Samelu, father of the *de facto* complainant, is a converted Christian - BC 'C' Community, which is recognized as Backward Class under G.O.Ms.No.1793, Education, dated 23.09.1970 and, therefore, the offences under the Special Act would not attract.

i) Yet another submission made by the learned counsel is that the land in regard to which dispute has arisen between the parties is owned by the petitioners and does not belong to *de facto* complainant.

4. The learned Additional Public Prosecutor for the State of Andhra Pradesh strongly resisted the request.

5. Perused the averments of complaint and the copies of Community, Nativity and Date of Birth Certificates of the *de facto* complainant and his parents.

6. A perusal of copy of Community, Nativity and Date of Birth Certificate of the *de facto* complainant, which was issued by Tahsildar, Velgodu Mandal, would show that the *de facto* complainant belonging Regadigudur village of Velgodu Mandal in Kurnool District and that he belongs to Mala - SC Community, whereas, the parents of the *de facto* complainant belong to converted Christian - BC - C as per the certificates issued by the very same Tahsildar. When the certificates filed by the petitioners mutually contradicts, in case the other certificates, which are said to be the certificates of the parents of the *de facto* complainant, showing the caste of the parents as converted Christian, it is difficult at this stage to resolve the dispute unless a probe is made during investigation.

7. So far as the other submission of the learned counsel for the petitioner regarding land dispute is concerned, the learned Additional Public Prosecutor would submit that the petitioners are owners of Survey No.293/A2, whereas the incident alleged to have taken place, as mentioned in the complaint, is in Survey No.293/A1. These

aspects again relate to fact-situation, which can only be unearthed during course of investigation. Hence, the present petition is without merit and cannot be viewed that the complaint is vexatious in nature, nor can it be termed that the investigation and prosecution of petitioners in the aforesaid calendar case would amount to abuse of process of law.

8. Therefore, the Criminal Petition is dismissed. The Investigating Officer, however, is directed to adhere to the procedure inlaid by the provisions of Section 41A of the Code and also keeping in view, the guidelines laid down by the Hon'ble Supreme Court in **Arnesh Kumar v. State of Bihar**¹.

As a sequel thereto, miscellaneous petitions, if any, pending in the petition, stand closed.

A. SHANKAR NARAYANA, J

February 28, 2017.

Mgr

1. (2014) 8 SCC 273