

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION Nos.1100 of 2018 & 1407 of 2018

COMMON ORDER:

These Criminal Petitions are filed under Section 482 Cr.P.C. seeking to quash the proceedings in crime No.66 of 2018 of Piduguralla Town, Guntur District registered for the offences punishable under Sections 143, 147, 148, 452, 324, 307, 436, 427, 120B read with 149 IPC and 3 (1) (r), 3 (1) (s), 3 (1) (g), 3 (2) (iii), 3 (2) (v) and 3 (2) (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. The petitioners in Criminal Petition No.1100 of 2017 are A.1 to A.10 (name of 'Gade Tirupathi Reddy, s/o. Rami Reddy' is shown twice i.e. A.1 & A.10, and the same was corrected vide Memo dated 29.1.2018 by the investigating officer), and the petitioners in Criminal Petition No.1407 of 2018 are A.11 to A.24, in the said crime.

3. Heard Sri V.Sai Kumar, learned counsel for the petitioners, the learned Public Prosecutor for the State of Andhra Pradesh appearing for the respondent-State, Sri H.Prahallad Reddy, learned counsel appearing for respondent-defacto complainant, and perused the material available on record.

4. Learned counsel for the petitioners would submit that the registration of the present case is politically motivated; that the allegation is that the petitioners along with other accused burnt huts belonging the defacto complainant and others on the intervening night of 28/29.01.2018, beat the defacto complainant and L.W.2-Prabhudasu, abused them in the name of caste and committed the offences alleged; that in fact, there were no huts at all in the alleged scene of offence and none was residing at that place; that the subject

land covered by this crime is the subject matter of Writ Petition No.1049 of 2017 pending before this Court; that the land covered by survey no.141/3 situated at Konanki village of Piduguralla mandal, Guntur district was not assigned to any landless poor persons, and this Court in the above Writ Petition, granted interim orders and the same are being extended from time to time; that there are also news items published on 31.01.2018 about the illegal activities of the ruling party; that this case is foisted due to political rivalry; that the defacto complainant as well as other witnesses narrated names of petitioners and other accused in this case due to political rivalry; that the allegation that the land in dispute was allocated to the defacto complainant and others one week prior to 28.1.2018 is absolutely false; that continuation of the impugned proceedings is nothing but abuse of process of Court and ultimately, prayed to quash the same.

5. On the other hand, the learned Public Prosecutor would submit that on the intervening night of 28/29.01.2018, these petitioners along with other accused trespassed into the plots allotted to the defacto complainant and others, abused them in filthy language touching their caste, attacked with iron rods, etc., caused injuries, burnt huts constructed by them on the said sites, and made an attempt to do away with the life of the defacto complainant; that the defacto complainant was also chased by one of the accused; that there are also allegations of disputing the allocation of the land in favour of the defacto complainant and 160 other persons who erected huts on the said plots; that those huts were also burnt; that pattas in respect of the subject land were granted on 02.01.2017 and were distributed on 17.01.2017 by the Revenue Divisional Officer concerned to the defacto complainant and others; that none of the petitioners-accused has got any interest in the said land, and more over, they are

not land owners. He would further submit that the Government has filed a vacate stay petition in Writ Petition No.1049 of 2017; that the subject land was acquired as per the provisions of the Land Acquisition Act long back and compensation was paid to the land owners; that the defacto complainant (L.W.1) and one Prabhudasu (L.W.2) are injured witnesses; that in the course of investigation, the investigating officer examined the eye-witnesses, who corroborated the statement of the defacto complainant and other injured person; that the acts alleged against the petitioners-accused would *prima facie* constitute an offence punishable under Section 436 IPC and other penal provisions, which are enumerated in the First Information Report; that the punishment for the offence punishable under Section 436 IPC may extend up to imprisonment for life; that there is also panchanama to exhibit burning of huts, and that the petitioners have filed bail application under Section 438 Cr.P.C. before this Court and sought adjournment therein, these petitions are not maintainable, the matter requires investigation in accordance with law, and ultimately, prayed to dismiss the Criminal Petitions.

6. The learned counsel for respondent-defacto complainant supported the submissions made by the learned Public Prosecutor. He has produced before the Court a copy of patta certificate issued in favour of the defacto complainant wherein it is shown that plot No.103 admeasuring Ac.0.02 cents in survey No.141/3 of Konanki village was granted in her favour by the Tahsildar on 02.01.2017, and ultimately, prayed to dismiss the Criminal Petitions.

7. In view of the contentions put forth by both sides, the point for determination is whether the proceedings in crime No.66 of 2018 of Piduguralla Town police station, Guntur District are liable to be quashed ?

8. As per the material placed on record, the petitioner-A.21 is son of petitioners in Writ Petition No.1049 of 2017. His parents filed the above Writ Petition before this Court urging that they are absolute owners and possessors of the land admeasuring Ac.5.46 cents in survey No.141 (mentioned as 141/3) situated at Konanki village, Piduguralla mandal, Guntur district and the respondents are trying to dispossess them without acquiring the land and without following the procedure under the Land Acquisition Act. On 06.01.2017, this Court, while ordering notice before admission, passed the following order:

“The complaint of the petitioners is that the respondents, without acquiring the petition land or paying compensation to petitioners have issued house site pattas to beneficiaries on 02.01.2017.

I have perused the material available on record.

I am satisfied that if the petitioners are dispossessed without recourse to law, the petitioners will suffer loss and injury and hardship.

The respondents are directed not to dispossess the petitioners except in accordance with law, for a period of eight weeks.”

As per the copies of orders filed before this Court, the aforesaid interim order is being extended from time to time and it is subsisting till date. As seen from the order, the revenue authorities were directed not to dispossess the parents of petitioner-A.21 from the land admeasuring Ac.5.46 cents situated in survey No.141 (mentioned as ‘141/3’) without following due process of law.

9. As per the First Information Report, huts were burnt in the subject land on the intervening night of 28/29.01.2018, and one week prior to that, the said land

was allocated to the defacto complainant and others. As per the record placed before this Court, the pattas were granted in favour of the landless poor persons in respect of the subject land on 02.01.2017 and the same were distributed to them on 17.01.2017 by the Revenue Divisional Officer concerned. The allocation of the pattas falls within the period of existence of the interim order passed by this Court in the Writ Petition as indicated above.

10. In the submissions, the learned Public Prosecutor would submit that an extent of Ac.7.01 cents of land in survey Nos. 141/3B1, 141/3B2, 142/2A, 144, 143-2, 59/A & 135/A situated at Konanki village was acquired to provide house sites to weaker sections long back. There is no mention of acquisition of land in survey No.141/3. Further, the land in survey No.141/3 is the subject matter of the above Writ Petition wherein the aforesaid interim order was granted in favour of parents of petitioner-A.21. It goes to show that in spite of existence of the interim order as indicated above, land in survey No.141/3 was made into plots and allotted to some persons, including defacto complainant.

11. Learned counsel for the petitioners filed copy of patta certificate of one Chinnammai along with the material papers wherein she was assigned plot No.38 in survey No.141/3. In the material papers, the petitioners filed photographs of subject sites. There are no huts or burnt marks of the huts. Some news paper clippings are also filed. According to the same, no incident as alleged had taken place. As per the statement made in the first information report that one week prior to the alleged incident, the defacto complainant and others were given

pattas is accepted as true, it is difficult to sustain that the assignees were able to raise huts within a week of the allotment of the plots. The submissions made on behalf of the petitioners-accused cannot be discarded and the possibility of roping these petitioners in the case due to local politics, cannot be ruled out. Pendency of application under Section 438 Cr.P.C. is not a bar to entertain these petitions. The truth or otherwise and the aspects raised by the petitioners are required to be decided in the investigation. There is a dispute with regard to the title of the subject property, its allotment and issue of pattas. These allegations have to be dealt with and determined after full-fledged investigation by the superior police officer of the District. Therefore, the Superintendent of Police concerned shall personally monitor the investigation of the crime. It is not appropriate to quash the criminal proceedings, and appropriate direction is required to be given to investigating officer, protecting the petitioners from arrest. Under the aforesaid circumstances, the investigating officer shall not arrest the petitioners-accused herein and complete the investigation of case and file final report. The petitioners shall co-operate with the investigating officer.

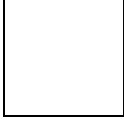
12. With the above directions, the Criminal Petitions are disposed of.

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

Dr. SHAMEEM AKTHER, J.

Date: .2.2018
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THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER



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.02.2018