

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION No.52 of 2013

ORDER:

This Criminal Petition under Section 482 of Cr.P.C., is filed seeking to quash the proceedings in C.C.No.50 of 2012 on the file of the First Special Judicial Second Class Magistrate, Tanuku, registered for the offences under Sections 447, 427, 323, 506 read with Section 34 IPC, against the petitioners/A1 to A5.

2. The allegations in the complaint are that the complainant is the owner of the agricultural land to an extent of Ac.0.86 cents in Rs.No.99/1 of Nelamuru Village and that on 01.09.2012 at about 6.00 PM, while he was watering his lands, all the accused came there, attacked him and kicked him with their legs.

3. Heard learned counsel for the petitioners and learned Public Prosecutor for the first respondent-State. None appeared for the second respondent in spite of service of notice.

4. Learned counsel for the petitioners submits that the suit for partition filed by the complainant was decreed in his favour and against the said decree, appeal preferred by the petitioners was dismissed. He further submits that an execution petition was filed by the complainant seeking to deliver possession of EP schedule property and the same was stayed by this Court by virtue of the order dated 29.08.2011 in SAMP No.2298 of 2011 in S.A.No.1007 of 2011.

5. The aforesaid decree and the execution petition would definitely suggest that the possession of the property is with the petitioners. But the charge sheet shows that when the complainant was cultivating the land, the accused came and attacked him. In the statements of the witnesses recorded by the police, they categorically stated that they have witnessed the incident in which five persons came into the land and beat the complainant. In view of the conflicting facts, this Court opines that it is not a fit case to quash the proceedings and a detailed enquiry has to be conducted in order to arrive at the truth.

6. Hence, the Criminal Petition is dismissed. However, at request of the learned counsel for the petitioners that the presence of the petitioners may be dispensed with, the trial Court is directed not to insist the appearance of the petitioners, except on the dates whenever their presence is necessary. Miscellaneous applications, if any, pending in this criminal petition shall stand dismissed.

15th November, 2018

sj

T. RAJANI, J