

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION No.11051 OF 2011

ORDER:

The present Criminal Petition under Section 482 of the Code of Criminal Procedure, 1973 is filed by the petitioner - accused seeking to quash the proceedings against them in Crime/FIR No.151 of 2011, dated 31.10.2011 of Sabbavaram Police Station of Visakhapatnam District, Andhra Pradesh, registered for the offences punishable under Sections 447 and 427 read with 34 of the Indian Penal Code, 1860 (for short 'IPC') and Section 3 of Prevention of Damage to Public Property Act, 1984.

2. Heard Sri T. Niranjan Reddy, learned Senior Counsel, appearing for Sri T. Nagarjuna Reddy, learned counsel for the petitioner and the learned Public Prosecutor for the State of Andhra Pradesh.

3. The crime was registered based on the report given by the Tahsildar, Sabbavaram on 31.10.2011. The complaint being, that the petitioners are encroaching on the land in Survey No.19, situated in D.M.S. Puram village, while a case is pending in the High Court. The learned senior counsel submits that there was a suit filed by the petitioners seeking for a declaration in O.S. No.47 of 2014 (Old O.S. No.498 of 2011) on the file of the I Additional District Judge, Visakhapatnam, and the same is still pending. He also draws the attention of this Court to the orders, dated 27.07.2011, passed by the Lokayukta, wherein based on the complaints given by some third

parties, the Lokayukta gave a direction that the claim of the complainants therein shall be considered for assignment of the disputed land. The said order was stayed by this Court, by virtue of the order, dated 09.09.2011, in W.P. No.24431 of 2011. The learned senior counsel also submits that the Tahsildar, Sabbavaram Mandal submitted a report to the Divisional Revenue Officer, Visakhapatnam, stating that the land does not belong to the Government and that the details of the *pattadars* were also mentioned therein, and the name of the Vendor of the petitioners also finds place in the name of the *pattadars*. The learned senior counsel further submits that it is for the third parties, who claim possession in the said property, to express any grievance, and it is not for the Tahsildar, Subbavaram Mandal, since the land admittedly does not belong to the Government. This Court finds force in the said contention. When the learned Public Prosecutor does not dispute the fact that the Tahsildar has submitted a letter to the Revenue Divisional Officer, Visakhapatnam stating that the land does not belong to the Government and that they are not assigned, but they are *Ryotwari Zewroyati Dry Lands*, this Court opines that the Tahsildar does not have *locus standi* to file a report. Therefore, continuation of all further proceedings against the petitioners herein is nothing but abuse of process of law and consequently the same are liable to be quashed.

4. Accordingly, the present Criminal Petition is allowed, and all the proceedings in Crime/FIR No.151 of 2011, dated 31.10.2011 of

Sabbavaram Police Station of Visakhapatnam District, Andhra Pradesh,
are hereby quashed against the petitioners.

Consequently, Miscellaneous Petitions, if any, pending in the
present Criminal Petition stand closed.

SMT. T. RAJANI, J

November 12, 2018
Mgr

