

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

Criminal Petition No.5576 of 2017

ORDER :

The petitioners are A1 to A3 in Crime No.133 of 2017 of Muvvalavanipalem Police Station, Visakhapatnam Commissionerate, registered for the offence under Sections 3 & 4 of the A.P. Land Grabbing (Prohibition) Act, 1982 (for short, 'the Act'). The impugment in the quash petition is against the F.I.R., which is not maintainable and liable to be quashed.

2. It is contended that it is the pre-requisite under Section 11 r/w 12 of the Act for any penal offence to be taken cognizance subject to the Tribunal's sanction by the designated Special Court, which is the Principal Junior Civil Judge, and the filing of F.I.R. before the Magistrate without even sanction to register the crime is unsustainable. In fact, undisputedly Section 12 of the Act speaks about the bar of cognizance. The registration of F.I.R. is not a cognizance. If at all any cognizance taken from the police investigation and final report before the learned Magistrate concerned, remedy is left open to the petitioners to impugn the police final report and cognizance order.

3. With the above observations, this Criminal Petition is disposed of with a direction to the police that they can investigate, however, shall not arrest the petitioners pending investigation, though can require any of their presence only for the purpose of investigation.

Miscellaneous petitions pending, if any, shall stand closed.

30.10.2018
MVA

Dr. B. SIVA SANKARA RAO, J

