

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.2483 of 2018

ORDER:

This Criminal Petition is filed by petitioners/A1 to A5 under Section 482 Cr.P.C, seeking to quash the proceedings against them in Crime No. 100 of 2018 of Jawaharnagar Police Station, Kushiguda Division, Medchal District, registered for the offences under Sections 447, 427 IPC and Section 3 (1) (f) and 3 (2), (Va) of the Scheduled Castes and the Scheduled Tribes (*Prevention of Atrocities*) Amendment Act, 2015.

2. The brief allegations of the complaint are that the accused have destroyed the darga wall which has been in existence since 15 years and the said wall serves the purposes of compound wall of Laxmi Seva Yerukala Sangam and the said wall was dismantled without any intimation to the Sangam and when the de-facto complainant and his people questioned the accused they abused them in the name of their caste and that is why the complaint.

3. The investigation is reported to be pending.

4. Staunchly denying the complaint allegations as false, the submission of the learned counsel for petitioners is that the petitioners in fact purchased 250 square yards of land through a registered sale deed and enjoying the same. While so, the GHMC constructed a compound wall encroaching a part of their site and therefore, petitioners made representation to the GHMC to remove the wall and the GHMC issued proceedings in Lr.No. G1/ 3021/ TPS/ C28/

GHMC/ 2018 dated 21.2.2018 stating that the addressees referred in the proceeding submitted a representation stating that GHMC authorities have constructed the compound wall encroaching their plot No. 13, S.No. 1/Part situated at Shiridi Enclave, Yapral Vilalge and demolished the GHMC park compound wall without waiting for the response of authorities on their application. In the proceedings, it was further mentioned that the addressees were directed to reconstruct compound wall as per the approved layout sanctioned by HUDA in File No. 10960/MP2/HUDA/99 as early as possible within two weeks duly taking the standard specification from the E.E.28, GHMC. It was further mentioned that if it is found at any point of time in future the material facts submitted by the addressees are false, the GHMC would have the right to take action. Learned counsel would submit that when the petitioners were about to take construction of the compound wall as per the aforesaid proceedings dated 21.2.2018 of GHMC, the de-facto complainant, who is an encroacher into Municipal Park, obstructed them and foisted a false case against them. On these pleas, leaned counsel sought for quashment of proceedings.

5. Learned Additional Public Prosecutor would submit that investigation is in the nascent stage.

6. In that view, the investigation shall lead to its logical end to know whether the constructions are as per the instructions issued by the GHMC or whether the de-facto complainant has any say in the matter. However, the

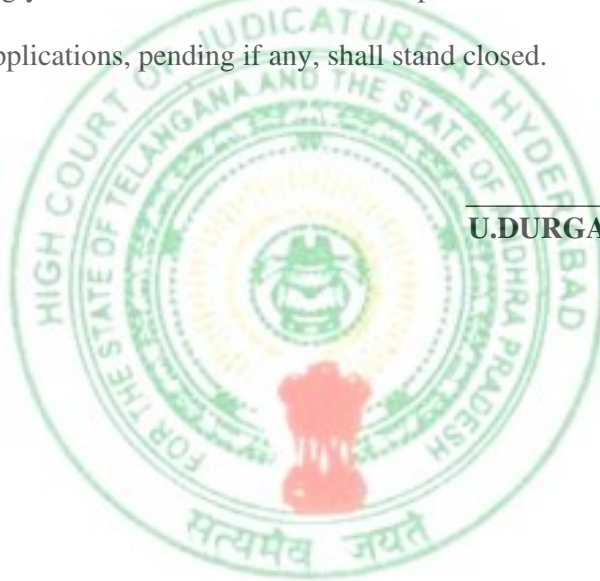
Investigating Officer shall strictly follow the guidelines rendered by the Hon'ble Apex Court in **Arnesh Kumar V. State of Bihar**¹ and follow the procedure contemplated under Section 41-A Cr.P.C., and shall not arrest the petitioners/A1 to A5 during the course of investigation. Petitioners/A1 to A5 in turn are directed to cooperate with the investigating agency for smooth completion of investigation.

7. Accordingly, the Criminal Petition is disposed of. As a sequel there to, miscellaneous applications, pending if any, shall stand closed.

Date: 12.04.2018

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U.DURGA PRASAD RAO, J



¹ (2014) 8 SCC 273