

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION No.9446 OF 2011

ORDER:

The present Criminal Petition is filed by the petitioners - accused Nos.1, 2 and 4 to 11, seeking to quash FIR No.62 of 2011, dated 19.06.2011 of Golugonda Police Station, Visakhapatnam, Andhra Pradesh State, registered for the offences punishable under Sections 341 and 420 read with 34 of the Indian Penal Code, 1860 (for short 'IPC').

2. Respondent No.2 - *de facto* complainant lodged a report with the Police against the petitioners alleging that he is the President of Golugonda Inland Fishermen Cooperative Society Limited; that on 19.06.2011 with a view to conduct elections to the Society in presence of its members at Mango Garden at Golugonda, he along with other members were present with records; that by 12.00 noon, most of the members were present at the meeting and their signatures were obtained. Meanwhile, petitioner No.1, who is an employee of the Cooperative Bank, and another with an intention to stop elections, started quarrelling, and when the complainant asked about the society's book, petitioner Nos.1 and 2 and one Adigarla Appala Naidu restrained him and made him believe that they would obtain the signatures of remaining members, but cheated him and took away the book in the crowd. Hence, lodged the complaint.

3. Learned counsel for the petitioners would submit that Writ Petition No.22838 of 2011, was filed by respondent No.2 and others

seeking a direction to the District Collector and District Election Authority, Visakhapatnam and the Joint Director of Fisheries, Narisipatnam, to take necessary steps by conducting an enquiry on the General Body, dated 19.06.2011, conducted by the Society and to conduct the elections to the society, and the same was dismissed by a learned Single Judge of this Court on 16.07.215 with an observation to approach the Election Tribunal.

4. Be that as it may, the complaint shows that there are specific allegations against petitioner Nos.1 and 2 that they snatched away the Minutes Book with an intention to start fight and to stop the election, they did the said act and when respondent No.2 asked about the Book, they restrained him and made him believe that they would obtain the signatures of remaining members, but cheated him by snatching away the Book and, thus, he lodged the report with the police seeking further action against them. The allegations require further investigation. However, names of other petitioner Nos.3 to 10 do not find place in the complaint.

5. Learned Public Prosecutor for the State of Andhra Pradesh would submit that based on the statement of one LW.7 - Kollana Kondala Rao, other petitioners were also shown as accused. But, the statement shows that other petitioners are only shown as beneficiaries of elections. Simply because they are benefited by the acts of petitioner Nos.1 and 2, they cannot be said that they are the persons, who are

responsible for the acts of accused Nos.1 and 2, when there is no specific allegation against them.

Hence, considering the above facts and circumstances, the present Criminal Petition is allowed in part, quashing the proceedings against petitioner Nos.3 to 10 - accused Nos.4 to 10 in Crime No.62 of 2011 of Golugonda Police Station, Visakhapatnam District, Andhra Pradesh State, while dismissing the same against petitioner Nos.1 and 2 - accused Nos.1 and 2.

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

September 27, 2018
Mgr

SMT. T. RAJANI, J

