

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.4190 OF 2018

ORDER.

This Criminal Petition is filed under Section 482 Cr.P.C. by the petitioner/A.7 seeking to quash the proceedings against him in Cr.No.53 of 2018 of Nizampatnam Police Station, Guntur District, registered for the offences under Sections 447 and 188 read with 34 I.P.C.

The complaint allegations, in brief, are as follows:

The 2nd respondent/complainant is the Tahisildar, Nizampatnam Mandal and he lodged a report with the police that certain lands situated in Nizampatnam village area were under enquiry of C.B.I. and Enforcement Directorate, Vigilance and Enforcement and therefore, Government have declared them as prohibited lands and none others should enter those lands but contrary to the same, the accused entered the lands and removed the flag posts.

Investigation is reported to be pending.

The submission of the learned counsel for the petitioner is that the petitioner's family is holding certain lands in the Nizampatnam mandal for which they were issued pattadar pass book No.2986 and when they are in lawful possession of the same, police wrongly arrayed them as accused holding that they entered the prohibited lands. Learned counsel drew the attention of this Court the Photostat copy of the pattadar pass book, wherein lands covered by different survey numbers were recorded in the name of petitioner.

He would also submit that in the complaint, the Tahsildar has not specifically mentioned as to the particulars of lands which are allegedly declared as prohibited lands.

Per contra, Additional Public Prosecutor would argue, in the complaint, three references were given and reference No.1 is in respect of the applications filed by one Perli Venkateswara Rao and 80 others and therefore, the lands covered by those applications would come under the prohibited lands.

He would further submit that in the notice issued by the Sub-Inspector of Police, Nizampatnam under Section 149 Cr.P.C. to the petitioner/A.7, he clearly mentioned that the lands situated in Thomaspeta of Nizampatnam Mandal covered by D.No.885 to 996 in an extent of Ac.180.00 belong to the Harijan Land Colonization Co-operative Society and later they were notified as Vanpic Project lands. He would thus argue that the petitioner is well aware about the lands which were notified as the Prohibited Lands.

As can be seen, the petitioner/A.7's claim is that certain lands in Nizampatnam Mandal belong to his family but they are not the lands relating to Vanpic Project or prohibited lands.

This aspect needs a thorough investigation by the Investigating Officer so as to arrive at a correct conclusion. As the matter stands, the Investigation can go on. However, the Investigating Officer shall strictly follow the guidelines of the Apex Court rendered in *ARNESH KUMAR Vs. STATE OF BIHAR* (¹) and also follow the provision under

¹ 2014 (3) ACR 2670 (SC)

Section 41-A Cr.P.C. towards the petitioner. In turn, the petitioner shall cooperate with the investigating agency for smooth completion of investigation.

The Investigating Officer shall complete investigation expeditiously.

Accordingly, this Criminal Petition is disposed of.

As a sequel, miscellaneous applications pending if any, shall stand closed.

JUSTICE U.DURGA PRASAD RAO

Dated 30th April, 2018.

Dvs



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