

SMT. JUSTICE T.RAJANI
CRIMINAL PETITION No.10747 of 2011

ORDER:

This criminal petition is filed under Section 482 Cr.P.C., seeking to quash the proceedings in Cr.No.82 of 2011 of Atchampet Police Station, Guntur District, registered for the offence under Section 188 IPC, against the petitioners/A1 to A5.

2. Heard learned counsel for the petitioners/A1 to A5, learned Public Prosecutor for the first respondent-State and learned counsel for the second respondent.

3. The complaint was filed by the President of Chandra Lift Irrigation Society, Konuru, Guntur District, alleging that the petitioners have violated the order passed under Section 145 Cr.P.C., by the Tahsildar.

4. Learned counsel for the petitioners submits that the Court shall take cognizance of the offence under Section 188 IPC only on the complaint in writing lodged by a public servant concerned and that since the complaint is not filed by such public servant, the proceedings against the petitioners are liable to be quashed.

5. Learned counsel for the second respondent submits that apart from the allegation of violation of the order passed under Section 145 Cr.P.C., there is other allegation that the petitioners have committed theft of the instruments and damaged them.

6. A perusal of the complaint shows that the ultimate action sought for by the complainant is only for violation of the order passed under Section 145 Cr.P.C. Hence, the contention of the learned counsel for the second respondent that the Court has power to take up the case on file for the offence of theft does not seem to be tenable since the crime is registered only for the offence under Section 188 IPC and that as the mandate of Section 195(1)(a)(i) of IPC is violated, the proceedings against the petitioners/A1 to A5 for the offence under Section 188 IPC cannot be allowed to be continued.

7. Accordingly, the Criminal Petition is allowed, quashing the proceedings in Cr.No.82 of 2011 of Atchampet Police Station, Guntur District, against the petitioners/A1 to A5. Miscellaneous applications, if any, pending in this criminal petition shall stand closed.

31st October, 2018.
sj

T. RAJANI, J