

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.7040 of 2018

ORDER:

In this petition filed under Section 482 Cr.P.C, petitioners/A1 to A3 seek to quash the proceedings against them in Crime No. 160 of 2018 of Bhupalpally Police Station, Jayashankar Bhupalpally District, registered for the offences under Sections 279, 324 & 504 r/w 34 IPC and Sections 3 (1) (r) & (s) and 3(2) (v) (a) of Schedule Caste and Schedule Tribes (POA) Act, 1989.

2. Having regard to the nature of the acquisition made in the FIR and as the investigation is in the nascent stage, this Court is of the considered view that the investigation to be proceeded to its logical conclusion. However, the Investigating Officer shall strictly adhere the guidelines issued by the Hon'ble Apex Court in **Dr.Subhash Kashinath Mahajan vs. State of Maharashtra**¹, which read thus:

- (i) Proceedings in the present case are clear abuse of process of court and are quashed.
- (ii) There is no absolute bar against **grant of** anticipatory bail in cases under the Atrocities Act if no prima facie case is made out or where on judicial scrutiny the complaint is found to be prima facie mala fide. We approve the view taken and approach of the Gujarat High Court in Pankaj D Suthar (supra) and Dr. N.T. Desai (supra) and clarify the judgments of this Court in Balothia (supra) and Manju Devi (supra);
- (iii) In view of acknowledged abuse of law of arrest in cases under the Atrocities Act, arrest of a public servant can only be after approval of the appointing authority and of a non-public servant after approval by the S.S.P. which may be granted in appropriate cases if considered necessary for reasons recorded. Such reasons must be scrutinized by the Magistrate for permitting further detention.
- (iv) To avoid false implication of an innocent, a preliminary enquiry may be conducted by the DSP concerned to find out whether the allegations make out a case under the Atrocities Act and that the allegations are not frivolous or motivated.
- (v) Any violation of direction (iii) and (iv) will be actionable by way of disciplinary action as well as contempt.

3. The petitioners/ A1 to A3 in their turn are directed to cooperate with the investigating agency for smooth completion of investigation.

¹ 2018 (1) ALD (CrL.) 629 (SC)

4. The Criminal Petition is disposed of accordingly.

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

Date: 10.07.2018
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U.DURGA PRASAD RAO, J

