

SMT JUSTICE T. RAJANI

CRIMINAL PETITION Nos.8235 and 8238 of 2011

COMMON ORDER:

The criminal petitions are filed for quash of the proceedings in CC.Nos.101 and 100 of 2010 on the file of the Junior Civil Judge, Darsi.

2. Heard the counsel for the petitioners and the learned Public Prosecutor appearing for the respondent.

3. The counsel for the petitioner submits that there are absolutely no overt acts attributed to any of the petitioners. The complaint also reflects that the petitioners went to the polling booth only to stop the polling officers from continuing polling activity after 5 PM, which is against the rules.

4. A perusal of the complaint would show that the first petitioner and his associates went to the polling booth at about 6.30 PM and asked the polling officers to stop the polling as it is beyond the permitted time. The allegations are specific only against the first petitioner and the other petitioners are categorized as his associates and followers. Though in the statements of witnesses, it is stated that the first petitioner came along with 100 associates, they stated that only 10 members entered the polling booth and the names of the said persons are not stated and initially it was only an objection raised by them and later when they were sent out, the allegation is that some persons pelted stones on the polling booth.

5. Hence, considering the nature of the allegations, this Court opines that so far as petitioners 2 to 84, in both the criminal petitions, are concerned, no offence, *prima facie*, can be made out. But considering that the name of the first petitioner is specifically stated and considering that there is specific averment that stones were pelted, which as evident from the statement, is, at the instance of the first petitioner, the petition so far as first petitioner is dismissed.

The criminal petitions are allowed in part and the proceedings in CC.Nos.101 and 100 of 2010 on the file of the Junior Civil Judge, Darsi, against the petitioners 2 to 84, are hereby quashed. The proceedings against petitioner No.1 shall continue. However, the plea of the counsel for the petitioners to dispense with the presence of the first petitioner during trial can be considered by directing the Court below not to insist upon the presence of the first petitioner unless it is necessary for the proceedings. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

January 5, 2018
DSK

T. RAJANI, J