

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.11141 of 2018

ORDER :

The petitioners are A.1 to A.4 of Crime No.171 of 2018 of Maheswaram Police Station, registered on 16.09.2018 on the report of the 2nd respondent/*de facto* complainant.

2. Notice sent to the address furnished by the *de facto* complainant in her report registered as crime returned unserved for insufficient service, is a sufficient service, for no other address to serve.

3. Heard learned counsel for the petitioners and learned Public Prosecutor for the 1st respondent-State and taken as heard the *de facto* complainant for the reasons supra.

4. It is one of the contentions of the learned counsel for the petitioners that they already given a report on 03.08.2018 and postal receipts also sent of sending to the police by registered post and the same was not registered and the present crime is registered at the instance of the *de facto* complainant. Whether it is reached or not is premature for me to consider from the postal receipt in the absence of showing acknowledgment, leave about any general diary entry made and any crime registered. It is for the petitioners or the *de facto* complainant if at all aggrieved to invoke the appropriate remedies including any private complaint. Thereby that is not a ground to seek for quashing of the present proceeding of the F.I.R., but for to show

on face value of the FIR no ingredients of the offences any of them attracted.

5. A perusal of the F.I.R. shows on the fateful day 16.09.2018 at about 9.00 a.m. the accused persons along with 40 persons with about 70 cement poles trespassed into the property, which is an extent of Ac.45.00 gts. out of Ac.153.14 gts in Sy.No.230 and erected the cement poles and committed mischief by damage to the property and even threatened the security persons of the de facto complainant to kill them if they prevent them in erecting the poles by trespassing and out of fear they could not prevent, it prima face attract the offences punishable under Sections 447, 427 and 506 read with 34 IPC, thereby there is nothing to quash the FIR but for to say whatever the petitioners want to rely the material regarding the property already demarcated and on field there is no trespass concerned to file the material before the Investigating Officer to consider as part of investigation.

6. With these observations, the criminal petition is disposed of, rather than dismissal, by directing police not to arrest pending investigation and if at all any appearance of any of the petitioners required for the purpose of investigation they have to appear as and when required, any failure to appear the police can invoke Section

41-A Cr.P.C., and also the guidelines as held by the Apex Court in **Arnesh Kumar Vs. State of Bihar¹**.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

15th November 2018.

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¹ (2014) 8 SCC 273