

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.11268 of 2018

ORDER:

The petitioners are A1 to A11 in F.I.R. No.406 of 2018 dated 12.10.2018 of Moinabad Police Station, Cyberabad, Hyderabad, registered for the offences punishable under Sections 341, 504, 506 r/w 34 IPC and Section 3(1), 3(1)(f), 3(1)(g) & 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (for short, “the Act”).

2. Notice sent to respondent No.2-*de facto* complainant. Though the track record shows notice served on 14.11.2018, but there is no representation. Hence, taken as heard and perused the material on record.

3. Heard the learned counsel for the petitioners and also the learned Additional Public Prosecutor representing the respondent No.1-State.

4. So far as the sustainability of accusation under Section 3(1)(f) and (g) of the Act is concerned, there is a cloud so also in relation to the offences under Sections 341, 504 & 506 IPC which is all depends upon the existence of 16 feet road which is in dispute and the respective extents in and around and it is contended as predominantly a civil dispute. However, there are accusations showing the abuse touching the caste even by A1 & A2 of the *de facto* complainant on 25.09.2018, leave about the same was condoned or not and even

persuaded not to give report and kept quite and subsequently on what all allegedly happened the report given, it *prima facie* cannot be considered as bar.

5. Having regard to the above, the investigation may go on. However, in the factual matrix the police shall not arrest the petitioners, but to secure their presence for the purpose of investigation as and when required. In the event of their failure to attend when required, the police strictly follow Section 41-A Cr.P.C. and also the guidelines as held by the Apex Court in **Arnesh Kumar v. State of Bihar**¹. All the defences are left open.

With the above observations, this Criminal Petition is disposed of. Miscellaneous petitions pending, if any, shall stand closed.

03.12.2018
MVA

Dr. B. SIVA SANKARA RAO, J

¹ (2014) 8 SCC 273