

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.11425 OF 2018

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C by the petitioners/ A1 and A2, seeking to quash the proceedings in Crime No.423 of 2018 on the file of Moinabad Police Station, Cyberabad District, registered for the offences punishable under Sections 447, 427, 504, 506 IPC and Sections 3(1)(f), 3(1)(s) and 3(1)(g) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 2015(for short 'the Act').

Heard learned counsel for the petitioners and learned Public Prosecutor appearing for the State in opposing the criminal petition, and perused the material on record. Though, respondent No.2/ de facto complainant served as per the track record, she failed to attend.

A perusal of the FIR only speaks alleged trespass and erection of cement poles in the land. There is no mischief there from nothing even to say any crop damage much less of above of Rs.50/- to attract the offence under Section 427 IPC. It is not even the case that she got fear and apprehended for the alleged utterance by the accused going to kill not even stating armed with weapons, to attract the offence under Section 506 IPC. Undisputedly, even from the definition of

Section 503 IPC, it is not even the case of the petitioners created any alarm which is the prerequisite. Even coming to the offence under Section 504 IPC, there must be intentional insult with intent to provoke breach of peace. It is not mere intentional insult that is also lacking thereby Section 504 IPC also has no application but for the so called trespass under Section 447 IPC. No doubt, as pointed out by the learned counsel for the petitioners, the de facto complainant did not even state what document in title, right and possession over the property. However, it is premature once there is an allegation to go into but for the prerogative of the investigating officer to investigate. If that is lacking, the very attracting of Section 3 of the Act particularly clause (1)(f) does not arise. So far as Sections 3(1)(s) and 3(1)(g) concerned, it is not even the case of any public view much less use and what are the words of abuse with intentional insult and not even a case of dispossession, thereby 3(1)(s) and 3(1)(g) have no application.

Having regard to the above, at best subject to the investigation as to any right and possession of the de facto complainant if at all for the alleged trespass, the offences under Section 447 IPC and 3(1)(f) of the Act that applies.

Accordingly, the Criminal Petition is allowed by quashing the proceedings so far as the registration of crime for the

offences punishable under Sections 427, 504 and 506 IPC and Section 3(1)(s) and 3(1)(g) of the Act by retaining Section 447 IPC and 3(1)(f) of the Act for the investigating officer to investigate and not to arrest the petitioners/ A1 and A2 pending investigation and file final report expeditiously. So far as the contention of the petitioners that Scheduled Castes or Scheduled Tribes provisions no way attract is concerned, for no proof filed, the petitioners are at liberty to file such proof before the investigating officer to consider by virtue of this order.

Miscellaneous petitions pending if any, shall stand closed.

Date: 12.11.2018
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Dr. B. SIVA SANKARA RAO, J

