

HONOURABLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.14541 of 2014

ORDER:

The petitioners are accused Nos.1 to 10 in CC.No.433 of 2014 on the file of X Metropolitan Magistrate, Cyberabad at Malkajgiri, which is outcome of crime No.41 of 2014 dated 26.01.2014 of Neredmet PS registered on the report of the 2nd respondent one Laxmaiah-defacto complainant, for the offences punishable under Sections 153-A, 188, 448, 341, 506 & 509 IPC and the police after investigation filed charge sheet by citing 17 witnesses viz., complainant-eye witness LW.1, other witnesses LWs.2 to 13, punch witnesses to the scene observation LWs.14 & 15 and IO who issued the FIR-LW.16 and who made further investigation and filed charge sheet LW.17, the FIR speaks that 2 persons headed by Dayasagar and Martin Luther indulged in illegal encroachment of Ashram/temple land which Ashram with land in existence with more than 30 years with name Sri Somaraju Guruji in preaching Hindu religious thought and it was registered as a society. It is thereby sought for stopping the encroachment and illegal construction by revenue and police people of said activities of accused by mentioning names of 5 persons P.Laxmaiah, Y.Omesh, A.Anjaiah, P.Mallesha and G.Ganga Ram as complainants.

2. The police investigation from the above registration of the crime speaks that one Tri Bhuvana Devi constructed Ashram in S.No.278 covering an extent of 1000 square yards known as Dattatreya Ashram by religious preaching and she breathed last and her daughter sold away 500 square yards to somebody who

constructed residential house bearing No.29-1442/2 and remaining 500 square yards sold to RS Dayasagar-A1 representing Dr Martin Luther Church and others and suddenly a big hall constructed and accused persons who do not belong to the locality started inauguration on 19.01.2014 and conducted Christian prayers and the Hindus with localities with Hanuman Temple there questioned them and in fact that land in S.No.278 is Government land and there is no any permission to the construction made by the accused for said Church. The old compound wall there of the disputed hall is inscribed as "Sri Matasree Tri Bhuvanadevi Ashramam" and colony people called as Dattatreya Ashram and inside the shed name board is found as Dr. Martin Luther Church. LWs.1 to 12 are witnesses to speak the same of the same is an Ashramam and abutted a compound wall there is also Hanuman Temple.

3. The contentions in the quash petition are that there are no any specific sustainable allegations against any of the accused to attract any of the offences much less to promote any enmity to different groups on the grounds of religion, caste etc., and there is no trespass or criminal intimidation or will disobedience of any order duly promulgated by the public servant and filing of the charge sheet and taking of cognizance is thereby unsustainable.

4. Heard learned counsel for the petitioners and the learned Public Prosecutor and also learned counsel for the 2nd respondent-complainant and perused the material on record.

5. The construction of a Church per se will not attract the offence under Section 153-A IPC, however the allegation is it is

with the intention of promoting enmity between the classes in the place of worship in the Hindu religious place known as Dattatreya Ashram which is in existence for past 30 years there A1 cause constructed the Church. Thus there is a prima facie accusation so far as that offence from the object behind despite it is Dattatreya Ashram with Hanuman Temple with several photos in and around, in construction of a church in part of the property under the guise of purchase from the Ashram administrators, leave about the same is a government land with no title to construct the church. The offence under Section 153-A IPC is a cognizable one. So far the other offences concerned, there is no any attracting of any Section 509 or 506 IPC of any criminal intimidation from the reading of the statements of the witnesses but for attracting of the offence under Section 153-A IPC supra and so far as the offence under Section 188 IPC concerned, police shall not register a case and file charge sheet to take cognizance but for to take cognizance on private complaint because of bar under Section 195(1) Cr.P.C. and as the investigation disclose including from statements of some of witnesses of the original Mataji of Ashramam died and her children apparently sold 500 square yards in which the alleged Church was constructed attracting of offence under Section 448, 341 IPC does not arise leave about same is when a government property.

6. Having regard to the above and in the result, this Criminal Petition is allowed in part by quashing the cognizance order of the CC.No.433 of 2014 on the file of X Metropolitan Magistrate, Cyberabad at Malkajgiri, for the offences under Sections 188, 448, 341, 506 & 509 IPC and retained the offence under Section 153-A

IPC for accused to face trial for it if at all charges framed and else to frame.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 18.03.2019
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