

THE HONOURABLE SRI JUSTICE N. TUKARAMJI

CRIMINAL PETITION No.3928 OF 2014

ORDER:

This petition, under Section 482 of the Code of Criminal Procedure (for short '*Cr.P.C.*'), has been filed by the petitioners/1st to 5th accused seeking quashment of the proceedings in F.I.R.No.26 of 2013 of Ramagopalpet Police Station, Hyderabad for the offences punishable under Section 3(c) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short 'the SC&ST(POA) Act') and Sections 324, 506, 420 and 403 of the Indian Penal Code, 1860(for short 'the *IPC*').

2. Case of the prosecution in brief is that the complaint is filed by the *de-facto* complainant/1st respondent herein under Section 156(3) of the Code of Criminal Procedure(for short the 'the *Cr.P.C.*') wherein it is alleged that in 2009, the 1st to 5th accused have approached the complainant and his family members and promised to pay an amount of Rs.2,00,000/- to each of the family and buy them a 300 square yards of land in city outskirts and requested them to vacate their residential place. In regard to this

transaction, on 19.07.2009, the accused had physically assaulted the complainant. Though the incident was reported, the police did not take any action. Thereafter, on 18.10.2012, the accused forcibly entered into the house of the complainant, dragged him out, and by abusing him in filthy language by pointing his caste, beat and warned him to vacate the house within two days. Immediately, he approached the police, however no action has been taken, thus lodged the private complaint.

3. Learned counsel for the petitioners would submit that the petitioners/1st to 5th accused never involved in any offence as alleged by the complainant. Nonetheless, there was an agreement between the parties and also executed memorandum of understanding on 10.07.2009, while to evade the same, the complainant foisted this false complaint, though the cause is civil in nature. Be that as it may, even a fair reading, the complaint is not making out any act of the accused with penal liability. In addition, the delay in lodging complaint itself is explaining the falsity of the complaint. Further, there is no material to show the alleged acts of cheating, voluntarily causing simple hurt and

criminal intimidation as contended in the complaint. Hence, the crime which is registered on de-based allegations is liable to be quashed.

4. Learned Assistant Public Prosecutor has pleaded that the averments in the complaint are specifically referring to the overtacts of the accused and their attempt to dispossess the complainant from his residential house. Further, accused had knowledge that the complainant belongs to the scheduled tribe. Whatsoever, the factuality of the averments in the complaint needs investigation. Thus, quashment of the criminal proceedings at the stage of investigation would be unjust and prayed for dismissal of the petition.

5. The submissions of the counsel and the materials on the record are considered. The allegations in the complaint are specific. It is settled position that while considering the petition for quashment of the criminal proceedings under Section 482 of the Criminal Procedure Code, the uncontroverted accusations on par value, constituting the *prima-facie* case shall be the guiding factor. In this matter, the averments are discerning positive case

against the petitioners/1st to 5th accused and the finding of fact can only be after due investigation and testing the evidentiary materials during the course of trial. In the present petition embarking upon an enquiry to find out whether the allegations were true or not is unwarranted. That apart, even if there is delay in lodging complaint, drawing any conclusion is unacceptable. Therefore, this Court is unable to agree the pleadings advanced on behalf of the petitioners/1st to 5th accused. Consequently, in absence of any tenable ground, this petition is failing on merit.

6. Resultantly, this petition is dismissed.

As a sequel, miscellaneous petitions, pending if any, shall stand closed.

N. TUKARAMJI, J

Date:03.11.2022

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