



IN THE HIGH COURT OF ANDHRA PRADESH  
AT AMARAVATI  
(Special Original Jurisdiction)

[3396]

TUESDAY ,THE TWENTY SIXTH DAY OF MARCH  
TWO THOUSAND AND TWENTY FOUR

**PRESENT**

**THE HON'BLE SMT.JUSTICE VENKATA JYOTHIRMAI PRATAPA**

**CRIMINAL PETITION Nos.948 & 949 of 2020**

**Criminal Petition No.948 of 2020**

**Between:**

- 1.G. SATYANARAYANA,, AGED ABOUT 63 YEARS, S/O. LATE G.VENKANNA, OCC BUSINESS, R/O.14-10-2/7, B.C.ROAD, GAJUWAKA, VISAKHAPATNAM -530026.
- 2.G. RAMAKRISHNA,, AGED ABOUT 66 YEARS, S/O. LATE G.VENKANNA, OCC BUSINESS, R/O.14-10-2/7, B.C.ROAD, GAJUWAKA, VISAKHAPATNAM 530026.

**...PETITIONER/ACCUSED(S)**

**AND**

- 1.THE STATE OF ANDHRA PRADESH, REPRESENTED BY S. H.O, GAJUWAKA P.S., VISAKHAPATNAM DISTRICT REP. THROUGH THE PUBLIC PROSECUTOR, STATE OF ANDH PRADESH, HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT AMARAVATI.
- 2.LAKSHMI MATURI, W/O LATE SRINIVAS CHAKRAVARTHY, R/O 33-1-33/1, FLAT NO.104, JYOTHI ENCLAVE, ALLIPURAM MAIN, VISAKHAPATNAM CITY, ANDHRA PRADESH

**...RESPONDENT/COMPLAINANT(S):**

**Criminal Petition No.949 of 2020**

**Between:**

ANNEPU NARASIMHA APPA RAO PITFT, S/O RAMAKRISHNA RAO, R/O D.NO.38-31-38, GREEN GARDENS MARRIPALEM, VISAKHAPATNAM.

**...PETITIONER/ACCUSED**

**AND**

- 1.THE STATE OF ANDHRA PRADESH, REPRESENTED BY S.H.O, GAJUWAKA P.S., VISAKHAPATNAM DISTRICT REP. THROUGH THE PUBLIC PROSECUTOR, STATE OF ANDH/A PRADESH, HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT AMARAVATI.
- 2.LAKSHMI MATURI, W/O LATE SRINIVAS CHAKRAVARTHY, R/O 33-

1-33/1, FLAT NO.104, JYOTHI ENCLAVE, ALLIPURAM MAIN,  
VISA KHAPATNAM CITY, ANDHRA PRADEP

...RESPONDENT/COMPLAINANT(S):

**Counsel for the Petitioner/accused(S):**

1.N ASHWANI KUMAR

**Counsel for the Respondent/complainant(S):**

1.PUBLIC PROSECUTOR (AP)

**The Court made the following:**

**COMMON ORDER:**

The instant petitions under Section 482 of Code of Criminal Procedure, 1973<sup>1</sup> have been filed by the Petitioners/Accused Nos.2 & 3 and Accused No.1 respectively, seeking to quash the proceedings against them in S.C.No.123 of 2019 on the file of the Court of XI Additional District Judge-cum-Special Court for SC/ST PoA Act Cases, Visakhapatnam, registered for the offence punishable under Section 3 (1) (g) (r) (s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act<sup>2</sup>, 1989.

**2. The case of the prosecution, in brief, is as follows:**

a. Petitioners in are Accused Nos.1 to 3. On 01.09.2019, Respondent No.2 lodged a complaint against Petitioners/Accused Nos.1 to 3 for the offences punishable under Sections 468, 471 and 420 read with 34 IPC and Section 3 (1) (g) and 3 (2) (va) of the Atrocities Act. Police after investigation, laid charge sheet against the Petitioners for the offence under Section 3 (1)

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<sup>1</sup> for short 'Cr.P.C'

<sup>2</sup> for short 'the Atrocities Act'

(g) (r) (s) of the Act by deleting the offence under Sections 468, 471 and 420 read with 34 IPC.

**b.** It is alleged that Respondent No.2 acquired Ac.3.00 cents of land in Sy.No.82 of Gajuwaka Village through her mother Hemalatha. After the death of her husband, her family friend Paripalli Rama Rao took care of the land issues.

**c.** It is stated that on 07.06.2019 Respondent No.2 along with Paripalli Rama Rao were obstructed with construction work by Accused No.1, with the help of Accused Nos.2 and 3. It is further stated that Respondent No.2 belongs to Scheduled Caste community, as such, all the Accused forged and fabricated the documents and tried to occupy her property. Hence, the complaint.

### **Grounds Sought for Quashment**

**3.** After completion of investigation in the said crime, a charge sheet was filed and the same was numbered as S.C.No.123 of 2019 on the file of the Court of XI Additional District Judge-cum-Special Court for SC/ST PoA Act Cases, Visakhapatnam. The said case is sought to be quashed by Petitioners/A.1 to A.3 on the following grounds:

**a.** Accused Nos.2 and 3 are the title holders and are in peaceful possession and enjoyment of the said property. Accused Nos.2 and 3 along with one B.Subba Rao have been granted Ryotwari pattas in 1985 in accordance with Section 4 of A.P. Inams Abolition and Conversion into Ryotwari Act, 1956 and in tune with Rule 7, the Ryotwari patta was granted

to each of the Petitioner on 21.11.1985. Thereafter, the Municipal Authorities have granted permission for layout and for construction of residential buildings.

**b.** It is stated that the Special Deputy Tahsildar(Inams), Visakhapatnam issued proceedings dated 30.11.1978 after conducting *suo-moto* enquiry, wherein, a patta was granted to the tenant to an extent of Ac.8.99 cents. It is a patta land. The Tahsildar issued proceedings on 06.07.2013 stating that the subject property is a Government land.

**c.** The R.D.O and the Collector, after conducting enquiry, declared that the possession of various properties in Sy.No.82 particularly the share of 1572 square yards is a patta land. The Tahsildar issued proceedings directing Accused Nos.2 and 3 to appear for enquiry and for verification of documents on 16.07.2014. The land in Sy.No.82, which is situated in Gajuwaka Village is a Government land. Till the disposal of W.P.No.6689 of 2003, the land in Sy.No.82 of Gajuwaka Village will be treated as "No Man's Land".

**d.** Petitioners/Accused Nos.2 and 3 were being threatened to be dispossessed from their properties situated in Sy.No.82. Aggrieved thereby, Petitioners/Accused Nos.2 and 3 filed W.P.No.23959 of 2014 before this Court, wherein, directions have been given to maintain *status-quo* by both sides relating to survey of land in Sy.No.82.

**e.** It is further stated that Respondent No.1 addressed a letter to the Tahsildar, Gajuwaka on 25.06.2019 to depute staff for conducting the

survey. Respondent No.2/Complainant reported that she had purchased 600 square yards of vacant site in Sy.No.82 from one Nalamati Dorayya in the year 1991. On 31.05.2019, P.Ramarao and his workers entered into the site and destroyed the bushes. Thereupon, a case in Crime No.309 of 2019 for the offences punishable under Sections 447 and 427 read with 34 IPC was registered.

f. Respondent No.2/Complainant presented another complaint with the Police stating that her grandfather Vanga Jaganayakulu had a site of Ac.9.22 cents in Sy.No.82 of Gajuwaka Mandal. Out of the said property, the property to an extent of Ac.8.99 cents was entrusted to his children P.Williams, P.Prasad James and Hemalatha on 30.11.1978 and the remaining Ac.0.23 cents to Inamdar.

g. The mother of Respondent No.2 acquired Ac.3.00 cents of land towards her share. The Revenue Authorities issued pattas to Nallamati Dorayya, Godavarthi Satyanarayana and Godavarthi Ramakrishna to an extent of 1572 square yards each. Respondent No.1 requested the Tahsildar, Gajuwaka to conduct survey in Sy.No.82 of Gajuwaka Mandal. It is further stated that Respondent No.1, without having any power, sent such letter to the Tahsildar. Hence, the said proceedings of the Tahsildar were challenged by Petitioners/Accused Nos.1 to 3 in W.P.No.17127 of 2019 before this Court.

h. The Tahsildar, Gajuwaka issued proceedings dated 19.08.2019 directing Respondent No.1 to take criminal action against Accused No.2 and

Nalamati Dorayya for producing Form-VIII fake pattas. Pursuant to the proceedings of the Tahsildar, Police registered the present crime for the offences under Sections 468, 471 and 420 read with 34 IPC and Section 3 (1) (g) and 3(2) (va) of the Act

i. It is stated that Criminal Petition No.7713 of 2019 was filed challenging the registration of Crime, wherein, the Court directed not to take any coercive action including the arrest of the Petitioners *vide* Orders dated 17.12.2019. As no *prima facie* case is made out for the offence under sections 420, 468 and 471 read with 34 IPC, the Police, after completion of investigation, filed charge sheet for the offence under Section 3 (1) (g) (r) (s) of the Act.

j. It is further urged that the allegations mentioned in the complaint and the charge sheet even at their face value, do not satisfy the necessary ingredients to constitute any of the offences.

k. To attract the offence under Section 3 (1) (g) (r) (s) of the Act, the Accused should wrongfully dispossess the victim. Petitioners' vendor was granted Ryotwari patta in the year 1985 and has been in possession of the subject land and subsequently Respondent No.2 has been in possession of the subject land. Hence, the question of wrongfully dispossessing her from the subject land does not arise. Petitioners have no prior acquaintance with Respondent No.2 and have no knowledge about her caste.

l. Petitioners have never met Respondent No.2 at any point of time. The present case has been lodged with a *malafide* intention to harass the

Petitioners. Even if the allegations are taken at their face value and accepted in entirety, they are civil in nature.

#### **Arguments Advanced at the Bar**

4. Heard Sri N.Ashwani Kumar, learned counsel for Petitioners/Accused Nos.1 to 3 and Ms.D.Prasanna Lakshmi, learned Assistant Public Prosecutor representing the State/Respondent No.1. Though notice was served, none appeared for Respondent No.2.

5. Learned counsel for the Petitioners/Accused Nos.1 to 3 would submit that, no *mens rea* can be attributed to the Petitioners to commit the alleged offences. The necessary ingredients of the offence under Section 3 (1) (g) (r) (s) of the Act are absent in the present complaint and hence, they cannot be sustained in law. He would further submit that the entire allegations would reveal that the matter is of civil nature and hence, initiation of criminal proceedings is a clear abuse of process of law. It is also contended by the learned counsel that the Complainant is trying to give a cloak of criminal offence to the civil dispute. In support of his contentions, learned counsel for the Petitioners relied on the judgments of Hon'ble Apex Court in **B.Venateswaran and others v. P.Bakthavatchalam<sup>3</sup>, Gulam Mustafa v. State of Karnataka and another<sup>4</sup>, Hitesh Verma v. State of Uttarakhand**

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<sup>3</sup> 2023 SCC OnLine SC 14

<sup>4</sup> 2023 SCC OnLine SC 603

**& another<sup>5</sup>, Gorige Pentaiah v. State of A.P.,<sup>6</sup>, Ravindra Singh v. Sukhbir Singh and others<sup>7</sup> and Bal Kishan Das v. PC Nayar<sup>8</sup>**

6. Learned Assistant Public Prosecutor would submit that there are specific allegations, which would attract the alleged offence, against the Petitioners and that there would be no reason for interference of this Court. She would further submit that the matter requires trial to ascertain the truth or otherwise of the said allegations and hence, prayed for dismissal of the criminal petitions.

#### **Point for determination**

7. Having heard the submissions of the learned counsel representing both the parties, now the point that would emerge for determination is:

*Whether there are any justifiable grounds for quashment proceedings against the Petitioners/Accused Nos.1 to 3 in S.C.No.123 of 2019 on the file of the Court of XI Additional District Judge-cum-Special Court for SC/ST PoA Act Cases, Visakhapatnam, for the offence punishable under Section 3 (1) (g) (r) (s) of the Act.?*

#### **Determination by the Court**

8. A bare perusal of Section 482 makes it clear that the Code envisages that inherent powers of the High Court are not limited or affected so as to make orders as may be necessary; (i) *to give effect to any order under the Code or, (ii) to prevent abuse of the process of any Court or, otherwise (iii) to secure ends of justice.* A court while sitting in Section 482 jurisdiction is not

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<sup>5</sup> (2020) 10 SCC 710

<sup>6</sup> (2008) 12 SCC 531

<sup>7</sup> (2013) 9 SCC 245

<sup>8</sup> 1991 Supp(2) SCC 412

functioning as a court of appeal or a court of revision. It must exercise its powers to do real and substantial justice, depending on the facts and circumstances of the case. These powers must be invoked for compelling reasons of abuse of process of law or glaring injustice, which are against sound principles of criminal jurisprudence.

9. In the case on hand, it is the case of Respondent No.2/Complainant that, while they were doing construction work in the subject land, Petitioners/Accused Nos.1 to 3 caused obstruction, as she belongs to Scheduled Caste. As such, she lodged a complaint against the Petitioners for the offences punishable under Sections 468, 471 and 420 read with 34 IPC and Section 3 (1) (g) and 3 (2) (va) of the Act.

10. Perusal of the record shows that, Police after investigation, having found that no *prima facie* case is made out against the Petitioners, laid charge sheet against the Petitioners for the offence under Section 3 (1) (g) (r) (s) of the Act by deleting the offence under Sections 468, 471 and 420 read with 34 IPC

11. At this juncture, it is apposite to extract Section 3 (1) (g) (r) (s) of the Act, which reads as under:

**“3. Punishments for offences atrocities.—(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—**

(g) wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights, including forest rights, over any land or premises or water or irrigation facilities or destroys the crops or takes away the produce therefrom.

Explanation.—For the purposes of clause (f) and this clause, the expression —wrongfully includes—

- (A) against the person's will;
- (B) without the person's consent;
- (C) with the person's consent, where such consent has been obtained by putting the person, or any other person in whom the person is interested in fear of death or of hurt; or
- (D) fabricating records of such land;

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(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view.”

**12.** As seen from the record, one Nalamati Dorayya was granted Ryotwari Patta by the Mandal Revenue officer, Gajuwaka on 20.11.1985 for the subject land i.e., 1572 square yards in Sy.No.82 of Gajuwaka Village. Subsequently, the said property was purchased by Petitioner / Accused No.1 from said Dorayya under a registered sale deed dated 11.11.1991. Further, it is the contention of the learned counsel for the Petitioners that, Petitioners/Accused Nos.2 and 3 are the title holders of the subject land. Whereas, it is the case of the Complainant that she acquired the land in Sy.No.82 of Gajuwaka Village through her mother Hemalatha and as she belongs to SC Community, she was obstructed by the Petitioners. However, no iota of material has been placed on record to show that Respondent No.2 is the owner of the subject land. As such, the question of her wrongful dispossession from the subject land and intentional insult to humiliate her within public view by the Petitioners, does not arise. Furthermore, perusal of the statements of the witnesses discloses that the Petitioners lodged a complaint in Crime No.309 of 2019 against Respondent No.2 and on the

next day, she lodged the present complaint against the Petitioners. The issue is with regard to declaration of title and possession over the subject property, which is purely a civil dispute. As such, Respondent No.2 has to approach a competent civil Court for redressal of her remedy.

13. In **Paramjeet Batra Vs. State of Uttarakhand and others**<sup>9</sup> the Hon'ble Apex Court at Para No.12 held as follows:

*“12. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. **A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court.**”*

(emphasis supplied)

14. Neither the F.I.R nor the charge sheet contains any reference to the essential requirements under Section 3 (1) (g) (r) (s) of the Act. In this backdrop, the continuation of prosecution against the Petitioners/ Accused Nos.1 to 3 would amount to an abuse of the process of law where the civil dispute is sought to be given the colour of criminal wrong.

15. On an overall consideration of the entire material placed on record and the decisions referred to above, and the law declared by the Hon'ble

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<sup>9</sup> (2013) 11 SCC 673

Apex Court in the judgments referred to *supra*, it is suffice to conclude that the contentions raised by the learned counsel for the Petitioners/Accused Nos.1 to 3 and the material produced before this Court directly indicate the malafides in prosecution of criminal proceedings against the Petitioners/Accused Nos.1 to 3, to cloak a civil dispute with criminal nature and also as a counterblast to the case in Crime No.309 of 2019 registered against Respondent No.2 by the Petitioners. In view of the foregoing discussion, this Court is of the view that it is a fit case to exercise the inherent jurisdiction of this Court under Section 482 Cr.P.C to quash the proceedings against the Petitioners/Accused Nos.1 to 3.

**16.** In the result, these Criminal Petitions are allowed by quashing the proceedings against Petitioners/Accused Nos.1 to 3 in S.C.No.123 of 2019 on the file of the Court of XI Additional District Judge-cum-Special Court for SC/ST PoA Act Cases, Visakhapatnam, for the offence punishable under Section 3 (1) (g) (r) (s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

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

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**JUSTICE VENKATA JYOTHIRMAI PRATAPA**

Date:26.03.2024

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**HON'BLE SMT. JUSTICE VENKATA JYOTHIRMAI PRATAPA**

**CRIMINAL PETITION Nos.948 & 949 of 2020**

Dated: 26.03.2024

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**HON'BLE SMT. JUSTICE VENKATA JYOTHIRMAI PRATAPA****CRIMINAL PETITION Nos.948 & 949 of 2020****Criminal Petition No.948 of 2020****Between:**

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**...RESPONDENT/COMPLAINANT(S):**DATE OF JUDGMENT PRONOUNCED: **26.03.2024**

**SUBMITTED FOR APPROVAL:**

**THE HON'BLE SMT. JUSTICE VENKATA JYOTHIRMAI PRATAPA**

1. Whether Reporters of Local Newspapers  
may be allowed to see the judgment? Yes/No
2. Whether the copies of judgment may be  
marked to Law Reporters / Journals? Yes/No
3. Whether Her Lordship wish to  
see the fair copy of the Judgment? Yes/No

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**JUSTICE VENKATA JYOTHIRMAI PRATAPA**

**\* THE HON'BLE SMT.JUSTICE VENKATA JYOTHIRMAI PRATAPA**  
**+ CRIMINAL PETITION Nos.948 & 949 of 2020**

**% 26.03.2024**

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**...RESPONDENT/COMPLAINANT(S):**

! Counsel for Petitioners : Sri N.Ashwani Kumar

^ Counsel for Respondents : Assistant Public Prosecutor for R.1

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> Head Note:

? Cases referred:

1. 2023 SCC OnLine SC 14
2. 2023 SCC OnLine SC 603
3. (2020) 10 SCC 710
4. (2008) 12 SCC 531
5. (2013) 9 SCC 245
6. 1991 Supp(2) SCC 412
7. (2013) 11 SCC 673

This Court made the following: