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M.NAGAPRASANNA

12/07/2024

Learned HCGP is directed to accept notice for respondent No.1. Issue emergent notice to respondent No.2. The petitioners - accused Nos.1 and 2 are before this Court calling in question registration of a crime in Crime No.167/2024 for it having been registered on 01.07.2024. A little history to the issue is a writ petition filed by the second petitioner in W.P.No.13374/2022, which comes to be disposed on 21.06.2024, by the following order: "Petitioner is given the liberty to apply online for phodi and durasthi of their lands with all the particulars in the manner known to law and upon such application, respondent No.4 shall take appropriate action in accordance with law on seniority basis as expeditiously as possible. The writ petition is disposed of accordingly." This order was not implemented. Learned counsel for the petitioners submits that the petitioners had to prefer contempt petition for the implementation of the order afore-quoted. After all this, springs the impugned crime by respondent No.2 against whom the said orders were passed in the writ petition. Surprisingly, the Police appeared to be unaware of the IPC having gone from 01.07.2024 and the BNS in place. They register the FIR for offences punishable under Sections 447, 427, 504 and 114 read with Section 34 of the IPC. While the content is the same, the offence would change. Section 427 of the IPC is now Section 322 of the BNS, which deals with mischief and Section 447 is now Section 327 of the BNS, which deals with criminal trespass, while there is no trespass in the case at hand. The crime is registered only as a counter blast to what the petitioners have done by filing the writ petition (supra). Since the crime is registered on 01.07.2024, it ought to have been registered for the corresponding offences under the BNS and not under the IPC. In that light, there shall be an interim order of stay of further investigation in Crime No.167/2024, qua the petitioners, till the next date of hearing and a direction also to the State to sensitize all the jurisdictional stations to henceforth register crimes only under BNS and not IPC.