

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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Criminal Petition No. 3650 of 2015

Order:

The instant petition is filed, under Section 482 of the Code of Criminal Procedure, 1973, by the petitioner, who is arraigned as sole accused, requesting to quash the proceedings in Calendar Case No.691 of 2014 on the file of IV Additional Chief Metropolitan Magistrate, Hyderabad, for the offence punishable under Section 447 IPC.

2. The facts, as reflected from the charge sheet, are that the petitioner herein, on 04.02.2013 at about 2.00 PM, alleged to have encroached into the police land of SAR CPL, near Vegetable Market, Gandhi Statue, Amberpet, Hyderabad, and was undertaking illegal construction over the land.

3. Learned counsel for the petitioner contends that, earlier, when the Commandant, Armed Reserved Police, Hyderabad, interfered with the repairs being carried out by one Khaja Ghouse Shareef to his house, in which, the learned counsel submits that the petitioner herein is a tenant, this Court, in Contempt Case No.2034 of 1998, while recording the stand of the Commandant that they were not interfering with the petitioner's property, closed the said contempt case by observing that if the Commandant and other two respondents, who are the Government of AP, represented by its Secretary and the Collector and Magistrate, Hyderabad, tried to interfere with the petitioner's peaceful possession and enjoyment of his property or carrying on with any repairs, the petitioner will be at liberty to proceed against them in accordance with law. It is, therefore, his submission that, despite the aforesaid orders, when the petitioner herein, who is the tenant of the said Khaja Ghouse Shareef, is effecting repairs, he is falsely implicated in the instant case, hence, it is a clear case of abuse of process of law and, therefore, sought to quash the proceedings in the Calendar Case against the petitioner.

4. Learned Assistant Public Prosecutor opposed the request contending that it is a clear case of encroachment, on account of which only, the complaint was lodged for the offence punishable under Section 447 IPC against the petitioner and, therefore, it is not a case where abuse of process of law would occur.

5. As seen from the contents of FIR and charge sheet, there is a clear allegation that the petitioner herein alleged to have encroached into the land belonging to SAR CPL, therefore, the aforementioned order of this Court in contempt case, on which the learned counsel is placing reliance strongly, would not assist him in granting relief of quashing the proceedings in the above calendar case. Since the dispute is in regard to property and in view of the offence alleged to have committed by the petitioner, the same has to be probed into by way of full fledged trial by the learned Magistrate and it is not a fit case where extraordinary jurisdiction of this Court, under Section 482 of the Code, can be exercised.

6. Accordingly, the Criminal Petition is dismissed.

7. As a sequel thereto, the miscellaneous applications, if any, pending in the Criminal Petition shall stand closed.

A. SHANKAR NARAYANA, J

Date: 29.04.2015

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