

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO
CRIMINAL PETITION No.2048 of 2015

ORDER :

This Criminal Petition is filed by Petitioners/Accused under Section 482 Cr.P.C seeking to quash the proceedings in C.C. No.615 of 2014 on the file of VI Metropolitan Magistrate, Medchal, Cyberabad which is the outcome of Crime No.624 of 2011 registered for the offences punishable under Sections 448, 341 and 504 I.P.C.

2) The admitted facts are that the complainant is the Manager-Design and Development in M/s.AESSEAL India Private Limited (for short, 'the Company'), that they had entered into an asset purchase agreement on 03.09.2008 with M/s.Standard Mechanicals Seals (India) Private Limited, Hyderabad (for short, 'SMSPL'), that as per the said agreement SMSPL would sell certain acquired assets including proprietary technical know-how and intellectual property for manufacture of mechanical seals and to transfer certain employees for a total consideration of Rs.17.20 crores, that subsequently on 08.12.2010, two directors of SMSPL filed O.P.No.2599 of 2010 under Section 9 of the Arbitration and Conciliation Act and the learned III Additional Chief Judge, City Civil Court, Hyderabad allowed and injunction is granted in favour of the Directors restraining the respondents from removing or shifting or transferring or alienating the acquired assets from the premises vide order dated 07.06.2011, that aggrieved by the same, the Company presented an appeal before this Court in C.M.A. No.615 of 2011 and the same was disposed of giving liberty to work out their remedies in the arbitration proceedings.

3) The allegations against the petitioners are that on 26.06.2011 when the complainant along with employees of the Company were in the process of shifting the assets other than acquired assets to their registered office at Pune, one Manappa (3rd petitioner herein) forcibly entered into the Company's premises at Jeedimetla along with 15 other anti social elements by pushing and abusing the security guards in filthy language threatened them not to shift the property otherwise they would cause physical harm to the employee and would also damage the premises, that he also made illegal demand to inspect the premises and demanded a list of the material to be shifted by the company against which the complainant refused to give details sought by him, that they started assaulting and beating the complainant and another employee, that he continued to stay till 6.00 p.m, that again at 7.00 p.m Manappa along with G.Sudhakar (4th petitioner/A-4) and two police men from Jeedimetla police station visited the company's premises and enquired about the shifting of assets, that the complainant furnished all the required documents to the police. It is further alleged that when the complainant went to the police station to submit documents to the police and to request to provide police assistance in shifting the assets, on his returning back from the police station, his colleague R.Amol Kumbhar apprised him that at about 2.00 p.m K.Nageshwara Rao (1st petitioner/A-1) and Md.Sultan (2nd petitioner/A-2) along with three other people forcibly entered into the company's premises in spite of repeated protest from the security guards and started abusing in most vulgar and filthy language and threatened that if the employees continue with the shifting process, they will physically assault them and will destroy the company's premises including the assets to be shifted and left

around 2.15 p.m. Basing on the complaint a case in Crime No.624/2011 was registered for the above said offences.

4) Prior to the above complaint, one of the Directors of SMSPL presented a report and the same was registered as a case in Crime No.13 of 2011 for the offences punishable under Sections 448, 506, 504, 509, 384/511 read with 109 I.P.C. While the investigation in Crime No.13/2011 was under progress, another complainant lodged another complaint against Stephen Shaw and Yogesh Karia of the Company which was registered as a case in Crime no.279/2011 for the offence punishable under Section 406 I.P.C.

5) Heard the learned counsel for the petitioners and the respondents and perused the material on record.

6) After perusal of the entire complaint, it is a fact that the petitioners' company and the 2nd respondent's company entered into an agreement and subsequently filed a petition in O.P. No.2599 of 2010 by the Directors of the company of the petitioners. After passing of orders in the above O.P while the 2nd respondent was trying to shift the assets of the petitioners' company, it is alleged that, the offences were committed by the petitioners. According to the charge sheet the petitioners, no other than staff and owners of the SMSPL (party of agreement), committed offences punishable under Sections 448, 341 and 504 I.P.C. Among those offences, Section 341 I.P.C states whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed. In the present case, no allegation in the charge sheet states that a particular person obstructs any person preventing

from proceeding in a direction in which he has a right to proceed. Further more, in the exception of Section 339 of I.P.C says that the obstruction of a private way over land which a person in good faith believes himself to have a lawful right to obstruct is not an offence. In the case on hand, the employees and the owners of the company entered into their own leased premises for inspection or otherwise, which does not comes under the definition of Section 339 I.P.C which is an offence punishable under Section 341 I.P.C. The other Section 504 I.P.C ingredients also do not attract since breach of peace does not arise in their own premises of petitioners and if any alleged incident occurred within the premises does not cause to break the public peace. Moreover, the alleged offence under Section 504 I.P.C is a non-cognizable under which the police shall not register any F.I.R on the report of the complainant. The other offence alleged is under Section 448 I.P.C punishment for house trespass. As per Section 442 I.P.C any person trespasses criminally by entering into or remaining in any building or the place for the custody of property and the place of the property in the case on hand belongs to the petitioners as well as the 2nd respondent company as per their agreement. Therefore, the ingredients of Section 442 I.P.C also do not attract against the acts of the accused, if any.

7) Learned counsel for the petitioner further contended that the charge sheet is not filed within three years as prescribed under Section 468 Cr.P.C. Opposing the same, learned counsel for the 2nd respondent contended that according to Section 468 Cr.P.C the period of limitation is three years if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years and Section 469 Cr.P.C the period of

limitation commences from the date of offence and while calculating the limitation period, the date of offence and the date of filing of charge sheet as not to be calculated vide **Sarath Mathew V. IOCVD**^[1] reiterating the law laid down in **Japani Sahoo V. Chandra Sekhar Mohanty**^[2]. No doubt, in the case on hand, the date of offence alleged is on 26.06.2011 and as per the copy of the charge sheet the same was received by the Court on 26.06.2014 and the learned Magistrate has taken cognizance for the above offences on 28.06.2014. In this regard, the prosecution could not explain why such delay has been caused while filing the charge sheet. Leaving the arguments of both sides in this regard nothing more to answer from the propositions supra but for only to say the main object in putting a bar of limitation on prosecution under Section 468 Cr.P.C was to prevent the parties from filing cases after a long time as a result of which material evidence may disappear and also to prevent abuse of the process of the Court by filing vexatious and belated prosecutions long after the date of the offence. From what is discussed supra, there is no case made out to sustain the prosecution from the alleged acts fall short to attract the offences supra to continue the proceedings.

8) Having regard to the above and on perusal of the entire charge sheet, it is evident that omnibus and general allegations were made against the petitioners, without any specific overt act against them. In the absence of any specific allegation attracting the offences registered against the petitioners, this Court is of the opinion that it is nothing but abuse of process of law to prosecute petitioners on the allegations which show absurdity.

9) In the result, the petition is allowed quashing the proceedings in C.C. No.615 of 2014 on the file of VI Metropolitan

Magistrate, Cyberabad at Medchal.

Dr. B. SIVA SANKARA RAO, J

15.09.2015
ksh

[\[1\]](#) (2014)2 SCC 62
[\[2\]](#) (2007)7 SCC 394