

THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

Criminal Petition No. 1348 of 2011

Order:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner/accused, seeking to quash the proceedings in CC No. 525 of 2010 on the file of III Additional Judicial Magistrate of First Class, Rajahmundry, registered for the offences punishable under Sections 447 and 506 IPC.

2. The petitioner herein is the sole accused. The respondents 2 and 3 herein, who are the husband and wife, filed a complaint against the petitioner/accused on 25.08.2010 alleging the offences punishable under Sections 447 and 506 IPC. The said complaint was registered as Crime No.257 of 2010 of III Town L & O Police Station, Rajahmundry, and after completion of investigation charge sheet was filed. Briefly stated the allegations, as contained in the complaint, are that there are civil disputes between the petitioner/accused and respondents 2 and 3 and that they being neighbours, the petitioner/accused has criminally trespassed into the property of the respondents 2 and 3 and, when they questioned the same, the petitioner is alleged to have abused them in vulgar language.

3. The contention of the learned counsel for the petitioner/accused is that, admittedly, there are civil disputes between the parties and the respondents 2 and 3 have attempted to give the cloak of a criminal offence to the matter which is purely civil in nature, obviously to apply pressure on the petitioner/accused to settle the dispute and the continuation of criminal proceedings would amount to abuse of process of Court and in support of his contention he relied on the decisions of the Hon'ble Apex Court reported in **Mohammed Ibrahim**

v. State of Bihar^[1], and Chandran Ratnaswami v. K.C. Palanisamy^[2].

4. There is no dispute with regard to the proposition that no person can be allowed to convert purely a civil dispute into a criminal matter, so as to bring the warring party to compromise. At the same time, what is required to be seen is as to whether the contents of the complaint, *prima facie*, show any ingredients of the offences alleged or not? The truth will come out only after full fledged trial. It is specifically mentioned in the complaint that there are civil disputes between the petitioner/accused and respondents 2 and 3 and that they being neighbours, the petitioner/accused has criminally trespassed into the property of the respondents 2 and 3 and, when they questioned the same, the petitioner is alleged to have abused both the respondents 2 and 3, who are husband and wife, in filthy language. This matter is required to be dealt with during the course of trial.

5. The contention of the learned counsel for the petitioner/accused is that the investigation done by the investigating officer on the face of it appears to be a table investigation, inasmuch as when the complaint itself came to be filed on 25.08.2010, the statements of the material eye witnesses were recorded by the investigating officer in Case Diary Part-II on 26.04.2010.

6. It is no doubt true that the date mentioned in the statements of the witnesses appears to be as if 26.04.2010 and it is not clear whether it is 26.04.2010 or 26.08.2010. This is also a matter of fact to be elicited during the course of trial when the investigating officer is in the witness box and on this ground alone the criminal proceedings cannot be quashed.

7. A perusal of the record would show that there is material, *prima facie*, sufficient to enquire into the allegations made against the

petitioner/accused. There are no valid grounds to quash the proceedings. The Criminal Petition is devoid of merit and the same is liable to be dismissed.

8. Accordingly, the Criminal Petition is dismissed.

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

M.S.K. JAISWAL, J.

Date: 06.07.2015

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[\[1\]](#) (2009) 8 SCC 751

[\[2\]](#) (2013) 6 SCC 740