

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.8842 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C., to quash the proceedings against the petitioner/A1 in Crime No.307 of 2015 of P.M. Palem Police Station, Visakhapatnam for the offences punishable under Sections 447, 427, 506 IPC and Sections 3 and 4 of A.P.L.G. Act.

2. Heard the learned counsel for the petitioner, learned counsel for the second respondent and learned Public Prosecutor representing the State.

3. The petitioner is A1 and second respondent is *de facto* complainant in Crime No.307 of 2015. As per the allegations made in the complaint, the brother of the second respondent executed General Power of Attorney in his favour in respect of Acs.0.65 cents in survey No.68/2A of Paradesipalem village in Visakhapatnam District. The case of the petitioner is that he is the owner of the said property and he sold the same to Mallakanti Malyadri and Obul Reddy (A2 and A3) under registered sale deed dated 11.11.2015. The petitioner as well as the second respondent has been independently claiming as owner of the property in dispute. Who is the owner of the extent of Acs.0.65 cents in survey No.68/2A of Paradesipalem village will come to light during the course of investigation.

4. It is needless to say that the court has to take into consideration the allegations made in the complaint while exercising inherent power under Section 482 Cr.P.C., in order to quash the criminal proceedings at the initial stage of investigation. The court is not justified in embarking upon an enquiry to ascertain the truthfulness, genuineness or otherwise of the allegations made in the complaint. It is a settled principle of law that the inherent power should not be exercised to stifle a legitimate investigation. If the allegations made in the complaint do not constitute the offence much less the offence alleged to have been committed by the petitioner, then this court can quash the proceedings in order to prevent abuse of process of court thereby to secure the ends of justice.

5. I have carefully perused the allegations made in the complaint in order to ascertain whether the allegations made in the complaint are patently absurd and inherently improbable thereby to quash the proceedings. The material available on record is *prima facie* sufficient to investigate into the matter in order to ascertain the truthfulness or otherwise of the allegations made in the complaint.

6. Having regard to the facts and circumstances of the case and also the principle enunciated in **R.P.Kapoor v State of Punjab, State of Haryana v Bhajan Lal, V.Y.Jose v State of Gurajat** and **Teeja Devi v State of Rajasthan**, I am of the considered view that this is not a fit case to quash the criminal proceedings at the threshold.

7. The learned counsel for the petitioner submitted that the concerned Station House Officer may be directed not to arrest the petitioner during the pendency of the investigation. In view of the orders of this court dated 31.8.2015, the Station House Officer, P.M. Palem Police Station, Visakhapatnam, is hereby directed not to arrest the petitioner/A1 till completion of the investigation.

8. With the above direction, the criminal petition is dismissed. Miscellaneous petitions, if any pending in the criminal petition, shall stand closed.

T.SUNIL CHOWDARY, J

November 17, 2015.

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