

THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

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Criminal Petition No.2342 of 2015
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ORDER:

This application is filed under Section 482 Cr.P.C. to quash C.C.No.1 of 2015 on the file of the III Metropolitan Magistrate in Crime No.205 of 2012 lodged by 2nd respondent alleging that the petitioner and others committed offences under Sections 420, 427 and 447 IPC.

2. It is alleged in the charge sheet that even though the accused are pattedars of the land in Sy. No.29/A, Parvathapur village, Uppal Mandal, without having any right or title, they had criminally trespassed into the land admeasuring Ac.0.33 gts in Sy. No.29/E, damaged, cheated and sold it to various persons and thus committed offences under Sections 420, 447 and 427 read with 34 IPC.

3. The learned counsel for the petitioner contended that there are civil disputes between the parties and the injunction orders were obtained by the relative of the *de facto* complainant against some third parties and since there appear to be civil disputes, this application under Section 482 Cr.P.C. be allowed and the charge sheet be quashed. He placed reliance on the judgment of the Supreme Court in **Paramjeet Batra Vs. State of Uttarakhand and others**, decided on 14-12-2012.

4. In the said judgment, the Supreme Court has held:

"7. While exercising its jurisdiction under Section 482 of the

Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash criminal proceedings to prevent abuse of process of court."

5. It is alleged in the charge sheet that with a dishonest intention, the land of Ac.0.33 gts was shared equally by the accused persons A-1 to A-3 with the active connivance of A-4, by virtue of compromise deeds dt.06-07-2002, 20-07-2002 and 05-07-2003 and then they gave a land to A-5 for development.
6. In my opinion, the complaint in the present case discloses a criminal offence and there are essential ingredients of a criminal offence present. So it cannot be said that the dispute is essentially of a civil nature. Therefore, it is not a fit case to exercise jurisdiction under Section 482 Cr.P.C. to quash the charge sheet.
7. Accordingly, the Criminal Petition is dismissed.

JUSTICE M.S. RAMACHANDRA RAO

Date : 13-04-2015

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