

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.12035 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C., to quash the proceedings against the petitioners/A1 and A2 in Crime No.259 of 2015 of Akividu Police Station, West Godavari District for the offences punishable under Sections 447, 357, 427, 506 and 509 read with 34 IPC.

2. The contention of learned counsel for the petitioners is two fold: (1) the *lis* involved between the parties is purely civil in nature and there is no element of criminality; and (2) the first petitioner filed a civil suit against the second respondent and her husband; therefore, the second respondent filed this false case to harass the petitioners. ***Per contra***, learned Public Prosecutor submitted that this is not the stage to go into the merits of the main case.

3. The petitioners are A1 and A2 and second respondent is *de facto* complainant in Crime No.259 of 2015. A perusal of the record reveals that the first petitioner filed O.S. No.1 of 2015 on the file of the court of Senior Civil Judge, Bhimavaram against the second respondent, her husband and another seeking perpetual injunction. In the month of March 2015, vendors of the first petitioner lodged a complaint to the Station House Officer, Akividu Police Station, who in turn registered a case in crime No.133 of 2015 against the second respondent, her husband and others for the offences punishable under Sections 120B, 420, 467 and 506 read with 34 IPC. As per the allegations made in the complaint, on

30.10.2015 the petitioners herein entered into the premises of the second respondent and demolished the compound wall. Whether the petitioners demolished the compound wall of the second respondent or not and whether the second respondent has lodged a false complaint 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 petitioners, 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**^[1], **State of Haryana v Bhajan Lal**^[2], **V.Y.Jose v State of Gurajat**^[3] and **Teeja Devi v State of Rajasthan**^[4], 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 petitioners submitted that the concerned Station House Officer may be directed not to arrest the petitioners/A1 and A2 during the pendency of the investigation. The offences alleged to have been committed by the petitioners are bailable. Hence, the Station House Officer, Akividu Police Station, West Godavari District is hereby directed not to arrest the petitioners/A1 and A2 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 18, 2015.

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^[1] AIR 1960 SC 866

^[2] AIR 1992 SC 604

^[3] (2009) 3 SCC 78

^[4] 2015 (1) ACR 564 (SC)