

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.12521 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/A.1 to A.6 in Crime No.65 of 2015 of K.Nagalapuram Police Station, Kurnool District registered for the offences under Sections 447, 427 and 324 read with 34 I.P.C.

2. The contention of the learned counsel for the petitioners is two fold: (1) The brother of the second respondent filed O.S.No.568 of 2014 on the file of the Principal Senior Civil Judge, Kurnool against the petitioners and others for declaration of title and recovery of possession of property in respect of an extent of Ac.5.34 cents in Survey No.183/B of Penchikalapadu Village, Gudur Mandal, Kurnool District that itself indicates neither the second respondent nor his brother family members are in possession of the property, (2) At the instance of Golla Ullakki, who is his brother, the second respondent filed the present complaint with an ulterior motive to harass the petitioners.

3. The learned Public Prosecutor submitted that this is not the stage to go into the merits of the main case.

4. A perusal of the record reveals that the petitioners are accused Nos.1 to 6 and the second respondent is the *de facto* complainant in Crime No.65 of 2015.

5. As per the allegations made in the complaint, the petitioners have trespassed into the landed property to an extent of 5.34 cents in Survey No.183/B of Penchikalapadu Village, Gudur Mandal, Kurnool District without any right whatsoever. It is further alleged that the petitioners have beat the second respondent.

6. Admittedly, civil suit is pending between the petitioners and the own brother of the second respondent. Whether the second respondent has been in possession of the property or not will come to light during the course of investigation only in view of the recitals in O.S.No.568 of 2014.

7. While exercising the inherent power under Section 482 Cr.P.C., the Court has to

take into consideration the allegations made in the complaint only. The Court is not justified in embarking upon an enquiry as to probability, reliability or genuineness of the allegations made in the complaint at the initial stage of investigation. The material placed before the Court is *prima facie* sufficient to investigate into the matter in order to ascertain the truthfulness or otherwise of the allegations made in the complaint.

8. Having regard to the facts and circumstances of the case and also the principles enunciated by the Supreme Court in **R.P.Kapoor v. State of Punjab** and **State of Haryana v. Bhajanlal**, I am of the considered view that it is not a fit case to quash the proceedings at the initial stage of the investigation.

9. The learned counsel for the petitioners submitted that the concerned Station House Officer may be directed not to arrest the petitioners till completion of the investigation.

10. In view of the nature of the allegations made in the complaint, this Court is inclined to direct the Station House Officer, K.Nagalapuram Police Station, Kurnool District not to arrest the petitioners/A.1 to A.6 in Crime No.65 of 2015 till completion of the investigation.

11. With the above direction, the Criminal Petition is dismissed.

12. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 30.11.2015

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