

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

WEDNESDAY THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FIFTEEN

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

CRIMINAL PETITION No.9240 of 2009

Between:

Thota Srinivas

..... PETITIONER/ACCUSED

AND

State of Andhra Pradesh,
Rep.by its Public Prosecutor,
High Court, Hyderabad and another

.....RESPONDENTS

The Court made the following:

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

CRIMINAL PETITION No.9240 of 2009

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. to quash the proceedings in Cr.No.415 of 2009 on the file of the Mancherial Police Station, Adilabad District, registered for the offence under Section 4(3) of A.P.Land Grabbing (Prohibition) Act, 1982.

Heard the learned counsel appearing for the petitioner/accused and the learned Additional Public Prosecutor, representing the State.

The Tahsildar, Mancherial filed the complaint with the police alleging that the petitioner/accused illegally occupied the Government

land in Sy.Nos.327 and 345 of Mancherial by constructing cement roof sheds. It is alleged that in the survey conducted it was noticed that Ac.2.00 of land in Sy.No.327 of Mancherial was assigned to one Sri Jayaram, Ex-Serviceman, that the assignee has not cultivated the said land for the last 8 years and he constructed cement roof sheds and plotted the entire area in collusion with the petitioner/accused, due to which, a show cause notice was issued and the possession of the said land was taken back and was assigned under Indira Housing Scheme. It is further alleged that the petitioner/accused has occupied the land in Sy.No.345 of Mancherial for which, he was issued notice under Section 7 of the Land Encroachment Act and the action under the provisions of the Land Encroachment Act is in progress.

The learned counsel for the petitioner/accused submits that the complaint is not maintainable either on facts or on law. It is submitted that even according to the complaint, the petitioner/accused has made encroachment into the Government land for which proceedings under the Land Encroachment Act have been initiated and the matter is pending enquiry.

Unless it is held after enquiry that there was an encroachment made by the petitioner, the petitioner/accused cannot be prosecuted. With regard to the provisions of the A.P.Land Grabbing (Prohibition) Act, straight away the Revenue Department filed a police complaint without there being any finding by any competent Court or Authority that the petitioner/accused is a Land Grabber.

A bare perusal of the complaint clearly shows that the same cannot be sustained and the same is liable to be set aside in view of the provisions of the A.P.Land Grabbing (Prohibition) Act, and also the fact that for the alleged encroachment, if any, the Authorities have already initiated enquiry against the petitioner/accused under the provisions of the A.P.Land Grabbing (Prohibition) Act. In that view of the matter, the criminal proceedings against the petitioner/accused are liable to be quashed.

In view of the above, the Criminal Petition is allowed, the

proceedings in Cr.No.415 of 2009 on the file of the Mancherial Police Station, Adilabad District against the petitioners/accused are hereby quashed.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date:23.09.2015

Dsr