

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.11391 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/Accused Nos.1 to 3 in Crime No.29 of 2015 of Chandarlapadu Police Station, Krishna District, registered for the offence punishable under Sections 447, 434 and 506 read with 34 IPC.

Heard the learned counsel for the petitioners and the learned Public Prosecutor representing the State.

A perusal of the record reveals that the petitioners are accused Nos.1 to 3 and the second respondent is the *de facto* complainant in Crime No.29 of 2015. As per the allegations made in the complaint, the second respondent is having open land to an extent of Ac.0.15 cents in which there is a house in an extent of Ac.0.04 cents. The petitioners herein, who are the neighbors, trespassed into the open land of the second respondent without any right whatsoever.

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.

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.

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.

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.

Having regard to the facts and circumstances of the case and also in view of the principle enunciated by the Supreme Court in ***ARNESH KUMAR v. STATE OF BIHAR AND ANOTHER***, the Station House Officer, Chandarlapadu Police Station, Krishna District, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.29 of 2015, so far as the petitioners/Accused Nos.1 to 3 are concerned.

With the above direction, the Criminal Petition is dismissed.

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

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T.SUNIL CHOWDARY, J

09.11.2015

Rns

