

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

For the State of Telangana and the State of Andhra Pradesh

MAIN CASE NO: CRL.P.No.No.1093 OF 2011

Between:

P.Mohan Rao

.. Petitioner(s)

And

State of A.P. and another

.. Respondent(s)

DATE OF JUDGMENT PRONOUNCED: 23.07.2015

SUBMITTED FOR APPROVAL:

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

- | | |
|---|--------|
| 1. Whether Reporters of Local news papers
may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals | Yes/No |
| 3. Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? | Yes/No |

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

Criminal Petition No.1093 of 2011

ORDER:-

The present Criminal Petition is filed by the petitioner/A-4 under Section 482 of the Code of Criminal Procedure, 1973, seeking to quash the proceedings in C.C.No.277 of 2007 on the file of III Additional Judicial First Class Magistrate, Tirupathi.

2. A charge sheet came to be filed against the petitioner and four others for the offences punishable under Sections 147, 148, 427, 341 and 506 read with Section 149 IPC.

3. The allegations in the charge sheet are as under:

The land in Survey Nos.376 and 377 to an extent of Ac.12.40 cents and Ac.17.18 cents respectively of Avilala village, Tirupathi Rural Mandal was classified as Government Tank Poramboke. It is alleged that LW.1, who is the 2nd respondent herein, and the accused were trying to grab the said Government land and there were disputes between them over the said land. While so, on 19-06-2004 at about 11.00 A.M. A-1 to A-5 and some others formed themselves into an unlawful assembly, armed with deadly weapons, damaged sugarcane crop alleged to have been raised by LW.1. It is further alleged that all the accused wrongfully restrained LW.1 and threatened him with dire consequences and went away. Basing on these allegations, a case in Crime No.85 of 2004 of Tiruchanur Police Station came to be registered for offences punishable under Sections 147, 148, 427, 341 and 506 read with Section 149 IPC. After completion of investigation, the police filed charge sheet, which is subject matter of challenge herein.

4. Heard learned counsel for the petitioner, learned Additional Public Prosecutor for the State and learned counsel for the 2nd respondent.

5. Learned counsel for the petitioner mainly submits that even accepting the allegations in the charge sheet to be true, no offence has been made out against the petitioner. According to him, there are no specific overt acts against the petitioner, as such he pleads that

continuation of criminal proceedings against the petitioner would be an abuse of process of law.

6. On the other hand, the learned Additional Public Prosecutor opposed the petition contending that the allegations in the charge sheet, *prima facie*, make out a case against the petitioner and this court should not interdict the proceedings by invoking its inherent jurisdiction.

7. Learned counsel for the 2nd respondent reported that the de facto complainant died.

8. In **Inder Mohan Goswami and another v. State of Uttaranchal and others**^[1], the Apex Court, while referring to its earlier judgment in **Indian Oil Corporation v. NEPC India Ltd.**, wherein the court cautioned the growing tendency in business circles to convert purely civil disputes into criminal cases, observed that any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution, should be deprecated and discouraged.

9. Keeping in view the principle of law laid down by the Hon'ble Apex Court, I proceed to deal with the matter. In fact, the police, after examination of the scene of offence and rough sketch of the scene, deleted Section 447 IPC on the ground that the disputed land belonged to Government, which was classified as Tank Poramboke. Similarly, Section 379 IPC was also deleted as snatching away of cell phone from LW.1 was found to be exaggerated. The material clearly discloses that the registration of crime itself was without any basis. The 2nd respondent having failed in all his attempts in getting the land from A-1 appears to have lodged the present complaint. The findings given by the civil court, *prima facie*, negative the plea of the prosecution and as such, the entire incident itself becomes doubtful. It is also a fact that the proceedings insofar as A3 are quashed. In that view of the matter, I am of the opinion that continuation of criminal proceedings against the petitioner/A4 is nothing but an abuse of process of law, and thus, the same is liable to be

terminated in respect of the petitioner/A-4.

10. Accordingly, the Criminal Petition is allowed and the proceedings in C.C.No.277 of 2007 on the file of III Additional Judicial First Class Magistrate, Tirupathi insofar as the petitioner/ A-4 is concerned, are hereby quashed.

11. As a sequel thereto, Miscellaneous Petitions, if any, pending shall stand closed.

M.S.K.JAISWAL,J

Date: 23-07-2015
kvrn

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

CRIMINAL PETITION No.1093 of 2011

DATED: 23.07.2015

kvrn

[\[1\]](#) (2007) 12 SCC 1