

HON'BLE SMT. JUSTICE ANIS
CRIMINAL PETITION No. 3945 OF 2012

-

ORDER:

-

This is a Criminal Petition filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code') by the petitioners/A.9, A.19, A.15, A.5, A.20, A.11, A.30, A.21, A.10, A.17, A.25, A.27, A.22, A.26, A.32, A.29, A.18, A.16, A.6, A.31 and A.24 requesting to quash the proceedings in P.R.C.No.14 of 2011 on the file of the learned Additional Judicial First Class Magistrate, Parchur.

2. The origin of the case is that the second respondent filed a complaint in PRC No.14 of 2011 on the file of the Additional Judicial First Class Magistrate, Parchur alleging that he got Ac.2.00 of land in Survey No.21 of Inagallu Village and eking out livelihood by doing cultivation. On 21.06.2006, the accused along with 30 tractors tried to dig the mud layers in his land by loading the same so as to lift it to their fields to avoid the storage of water in their land. The complainant on coming to know about the same, went to the land along with his wife, his sons and neighbours and questioned the accused about digging of the land. Then, the accused came upon him unlawfully and abused him and his wife and the persons who accompanied him by touching their caste in filthy language. The accused 2 to 4 have thrown the complainant keeping their hands on his neck and when his wife tried to rescue him, the accused No.3 caught hold of her tuft and dragged her, for which she fell down. The accused No.5 caught hold of the jacket of the wife of the complainant. Then, the accused abused the complainant in filthy language using the caste name. Out of fear, the complainant, his wife, sons and neighbours run away and at that time, the accused 8 and 12 tried to kill the sons of the complainant and other accused caught hold of them. The complainant says that all the accused with

a common intention formed into an unlawful assembly, trespassed into his land and caused damage of his land with a view to cause loss and damage to the complainant with a view to insult him in a public place and abused him touching his caste and humiliated him. The same was reported to police, but no action has been taken. The complainant waited for three days and on 25.06.2006, he gave a report to S.D.P.O., Chirala. The S.D.P.O., Chirala endorsed on papers to the S.I. of Police, Parchur to verify the contents and do the needful. On 30.06.2006, the complainant sent a registered post to D.S.P., chirala, C.I. of Police, Inkollu, S.I. of Police, Inkollu, Superintendent of Police, Ongole and District Collector, Prakasam at Ongole. The authorities received the said post. On 03.09.2006, the Parchur police registered a Crime No.97 of 2006 against the accused under Section 323, 354 I.P.C. and under Section 3(1)(v) & (x) of S.Cs. & S.Ts. (POA) Act, 1989. The complainant stated that without examining him and the witnesses, the police referred the case as a false on 30.04.2007 and issued referred notice. When the complainant filed a protest petition on the file of the Additional Judicial First Class Magistrate, on 29.11.2007 the Court accepted the final report in the absence of complainant and issued proceedings on 04.12.2007 and returned the complaint. Thereupon, the complainant filed a private complaint before the Additional Judicial First Class Magistrate, Parchur and the case was taken on file against A.1 to A.12 and A.15 to A.32 (since A.13 and A.14 are reported died) and registered it as PRC No.14 of 2011.

3. The case of the petitioners is that they are the residents of Inagallu Village of Parchur Mandal, Prakasam District, having small extent of lands and eking out their livelihood by doing agriculture. According to the petitioners, they are nothing to do with the land of the complainant. The complainant does not possess Ac.2.00 of land in Survey No.21 of Inagallu Village and he is having assigned Ac.0.11

cents of land for a period of one year in Survey No.21 of Inagallu village. The petitioners further stated that the Additional Judicial First Class Magistrate, Parchur registered a private complaint and in the complaint, the complainant made omnibus allegations against the petitioners and there are no specific allegations. Even assuming that the complaint is read as a whole, the ingredients of the provisions under which the case was registered against the petitioners are not fulfilled. The complainant even does not know the correct names of the petitioners. The present complaint was given by the complainant only to protect his illegal occupation of the land in Survey No.21 of the Inagallu Village. The filing of the complaint by the complainant and registering the same by the Court is nothing but abuse of process of the Court. The petitioners are innocent and they have nothing to do with the crime. According to the petitioners, they would be put to irreparable loss and grave hardship unless this Court quash the P.R.C.No.14 of 2011 pending against the petitioners on the file of the Additional Judicial First Class Magistrate, Parchur.

4. The learned counsel for the petitioners argued that there are no specific allegations made by the complainant against the petitioners and omnibus allegations were made in the complaint; that the complainant also does not know the correct names of the petitioners and only to protect the illegal occupation of the land in Survey No.21 of Inagallu Village, the complainant filed the criminal case; that when the accused and others participated in Neeru Meeru programme and in that process, 300 people were gathered and they dug the waste land of the Government, at that time the complainant came there and threatened them, but the petitioners and others have not committed any offence much less the offence alleged by the complainant; that the M.R.O. in his Section 161 Cr.P.C. statements before the police also stated that the complainant was not owning Ac.2.00 of land in Survey No.21 of Inagallu village and he was allotted only Ac.0.11

cents of land for one year, but he encroached the land and doing cultivation, for which he does not have any right; that the earlier complaint filed by the complainant was referred as false and again the present complaint was lodged, which was registered as P.R.C.No.14 of 2011; that the complaint has no case and registering of the complaint is nothing but abuse of process of Court against the petitioners who are no way connected to the crime, and finally prayed the Court to quash the proceedings in P.R.C.No.14 of 2011 on the file of the Additional Judicial First Class Magistrate, Parchur.

5. On the other hand, the learned Public Prosecutor argued that earlier complaint filed by the complainant was referred as false and thereafter another complaint was lodged.

6. Now, the point for determination is –

Whether the petitioners are entitled to quash the proceedings in P.R.C. No.14 of 2011 on the file of the Additional Judicial First Class Magistrate, Parchur?

7. **Point:**

As per the material available on record, the petitioners and the complainant are the residents of Inagallu Village of Parchur Mandal, Prakasam District. The petitioners as well as the complainant were eking out their livelihood by doing agriculture and they own small extents of land in the village. A perusal of the written complaint filed by the complainant to the police shows that there are no specific overt acts against the petitioners. The complainant gave the names of all the accused including the petitioners who were present on 21.06.2006. Even in the sworn statements made before the Court, the complainant, his wife and son have not stated any allegations or specific overt acts against the petitioners except A.5.

8. The MRO's statement recorded by the police shows that the complainant does not own Ac.2.00 of land in Survey No.21 of Inagallu

Village and he was allotted only Ac.0.11 cents of land for one year. When police recorded Section 161(3) Cr.P.C. statements of the villagers, they have stated that on 21.06.2006, the villagers participated in Neeru Meeru programme and they dug the land in Survey No.21 which belongs to the Government waste land to level their fields to avoid the storage of water in their land.

9. A perusal of the complaint clearly shows that no specific overt acts were attributed and no specific allegations were made against the petitioners except petitioner No.4/A.5. Therefore, registering the case against the petitioners except petitioner No.4/A.5 is nothing but abuse of process of Court and this Court, by exercising inherent powers under Section 482 Cr.P.C., is inclined to quash the proceedings against the petitioners except petitioner No.4/A.5.

10. Accordingly, the Criminal Petition is allowed in part and the proceedings against the petitioners except petitioner No.4/A.5 in P.R.C.No.14 of 2011 on the file of the Additional Judicial First Class Magistrate, Parchur, are hereby quashed.

11. Miscellaneous petitions pending, if any, in this Criminal Petition shall stand closed.

ANIS, J

Date: 20.02.2015
Anr