

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.14775 OF 2016

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings in C.C.No.No.1837 of 2015 on the file of XVI Additional Chief Metropolitan Magistrate, Hyderabad wherein the petitioner allegedly committed an offence punishable under Sections 427, 447 I.P.C. and Section 4 of A.P.Land Grabbing (Prohibition) Act, 1982.

The main allegations made in the complaint is that on 14-3-2014 at about 19.30 hours Naresh Singh son of Om Prakash encroached government land in T.S.No.4 Nampally village. During the course of inspection of Government lands, Mandal Revenue Inspector noticed that one Naresh Singh is raising construction in the Government land in the said T.S.No. and as per TSLR, it is recorded in Col. No.10 as 'Abadi' and in col.No.20, it has been recorded as 'G' and reported that there was status quo order passed by the Endowment Tribunal in O.A.No.2935 of 2010 which is pending and in spite of status quo order, Naresh Singh son of Om Prakash took up illegal construction in the Government Land.

Allegations made in the F.I.R. shows that the Government is the owner of the property and it was encroached by the said Naresh Singh son of Om Prakash and he is making construction and if those allegations are proved, it would constitute offence punishable under Sections 427 and 447 I.P.C. but so far as Section 4 of A.P.Land

Grabbing (Prohibition) Act, 1982 is concerned, Section 4 defined only land Grabber.

But according to Section 11 of Land Grabbing Act, every offence under the Act shall be tried by Magistrate of First Class, specially empowered by government in this behalf alone is competent to take cognizance and according to Section 12 of the Land Grabbing Act, cognizance shall not be taken except previous sanction of special tribunal.

Admittedly, Magistrate to whom F.I.R.was sent was not specially empowered as required under Section 11 to take cognizance and no sanction was obtained as required under Section 12.

Therefore, registration of crime under Section 4 of A.P.Land Grabbing Prohibition Act is illegal and proceedings in Crime No.1837 of 2015 is quashed to the extent of taking cognizance and trying any offence punishable under A.P.Land Grabbing (Prohibition) Act, 1982 while permitting the police to investigate the crime for the offence punishable under Sections 427 and 447 I.P.C. and take necessary steps in that regard.

It is brought to the notice of this court that petitioner applied for regularization under G.O.M.S.No.58 and the application is pending for consideration. It is also the case of petitioner that notice under Section 7 of A.P.Land Encroachment Act was issued to dispossess the petitioner from the property. The concerned authorities are at liberty to consider the request of regularization in

terms of G.O.Ms.No.58 referred supra not withstanding the crime registered against the petitioner and pass appropriate orders.

Accordingly, this Criminal Petition is disposed of.

As a sequel to the disposal of this petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

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JUSTICE M.SATYANARAYANA MURTHY

Dated 20-10-2016.

Dvs.



HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY



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Dated 20-10-2016.

Dvs