

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.10843 OF 2009

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/A-1 to A-3 in Crime No.89 of 2009 on the file of Kotananduru Police Station, East Godavari District registered for the offences under Sections 447, 323 and 379 read with 34 I.P.C.

2. Heard the learned counsel for the petitioners, learned counsel for the second respondent and the learned Public Prosecutor representing the State.

3. A perusal of the record reveals that the petitioners are A-1 to A-3 and the second respondent is the *de facto* complainant in Crime No.89 of 2009. As per the allegations made in the complaint, on 4.11.2009, the petitioners herein trespassed into the land of the second respondent and committed theft of coconuts. It is further alleged that the petitioners beat the second respondent.

4. The contention of the learned counsel for the petitioners is that the first petitioner executed a gift deed in favour of her daughter in respect of land to an extent of Ac.1.00 cents in Sy.No.22/1 of Boddavaram Village. He further submitted that the daughter of the first petitioner filed O.S.No.176 of 2007 on the file of the Junior Civil Judge, Tuni and obtained interim injunction.

5. A perusal of the record reveals that civil and criminal disputes are pending between the parties. If this Court expresses any opinion, the same may cause prejudice to one of the parties to the proceedings. Whether the petitioners have committed the alleged offences or not will come to light during the course of investigation

only.

6. It is needless to say that the Court has to take into consideration the allegations made in the complaint while exercising inherent jurisdiction 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.

7. I have carefully perused the material available on record 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.

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8. Having regard to the facts and circumstances of the case and also the principles enunciated in ***R.P.KAPOOR v. STATE OF PUNJAB***^[1], ***STATE OF HARYANA v. BHAJAN LAL***^[2], ***V.Y.JOSE V STATE OF GUJARAT***^[3] ***AND TEEJA DEVI v. STATE OF RAJASTHAN***^[4], I am of the considered view that this is not a fit case to quash the criminal proceedings at the threshold.

9. The learned counsel for the petitioners submitted that the concerned Station House Officer may be directed not to arrest the petitioners till completion of investigation.

10. A perusal of the record reveals that this Court granted interim stay on 4.3.2010.

11. Having regard to the facts and circumstances of the case and also the interim order of this Court, the Station House Officer, Kotananduru Police Station, East Godavari District is hereby directed not to arrest the petitioners/A-1 to A-3 till completion of investigation in Crime No.89 of 2009.

12. With the above direction, the Criminal Petition is dismissed. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

JUSTICE T.SUNIL CHOWDARY

Date:3.3.2016
AMD

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THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

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CRIMINAL PETITION No.10843 OF 2009

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DATE:03.3.2016

AMD

[\[1\]](#) AIR 1960 SC 866

[\[2\]](#) AIR 1992 SC 604

[\[3\]](#) (2009) 3 SCC 78

[\[4\]](#) 2015 (1) ACR 564 (SC)