

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY
CRIMINAL PETITION Nos.9849 & 10314 of 2009

COMMON ORDER:

1 Both these Criminal Petitions are filed under Section 482 Cr.P.C. seeking to quash the proceedings against the petitioners, who are A.10 in CrI.P.No.9849 of 2009 and A.1 to A.3, A.6 to A.9 and A.11 to A.13 in CrI.P.No.10314 of 2009, in C.C.No.1785 of 2008 on the file of the Court of the III Additional Chief Metropolitan Magistrate, Hyderabad.

2 Heard the learned counsel for the petitioners in both the petitions and the learned Public Prosecutors appearing for both the States.

3 A perusal of the record reveals that basing on the complaint lodged by the Mandal Revenue Officer of Tirupati Urban Mandal, Tirupati, the Station House Officer Tirupati East Police Station registered a case in Cr.No.33 of 2005 against the petitioners and others for the offences punishable under Sections 468, 471, 474, 477 and 511 of IPC r/w section 34 of IPC and Sections 4 & 5 of A.P. Land Grabbing (Prohibition) Act, 1982. After completion of investigation, the investigating officer submitted a report to the Principal Assistant Sessions Judge / Chief Judicial Magistrate, Chittoor.

4 On 28.07.2007 the learned Chief Judicial Magistrate, Chittoor returned the bundle with the following endorsements:

“1. The charge sheet has to be filed before the competent Court as per the A.P. Land Grabbing (Prohibition) Act, 1982 under Sections 2 (1) (ia) (ib) and Sections 9 and 11 of the said Act and this Court is not having any jurisdiction to try the case.

2. The material record in Cr.No.33/2005 have been transmitted to the II Additional Judicial Magistrate of I Class, Tirupati for disposal in accordance with law.”

5 Thereafter, the record was transferred to the Court of the III Additional Chief Metropolitan Magistrate, Hyderabad and the same was numbered as C.C.No.1785 of 2008. On appearance of the petitioners and others, the learned III Additional Chief Metropolitan Magistrate,

Hyderabad framed charges against the petitioners for the offences punishable under Sections 468, 471, 474, 477 and 511 of IPC r/w section 34 of IPC.

6 The contention of the learned counsel for the petitioners is that the learned III Additional Chief Metropolitan Magistrate, Hyderabad has no jurisdiction to take cognizance of the offences alleged to have been committed by the petitioners since no part of the cause of action arose within the territorial jurisdiction of the Court of the III Additional Chief Metropolitan Magistrate, Hyderabad.

7 The learned Public Prosecutors for both the States also submitted that the learned III Additional Chief Metropolitan Magistrate, Hyderabad has no power whatsoever to try the case.

8 The learned counsel for the petitioners as well as the learned Public Prosecutors in one voice submitted that the Court, which is not having territorial jurisdiction to try the offences, is not entitled even to take cognizance.

9 In view of the submissions made by both parties, this Court called for the record from the Court of the learned III Additional Chief Metropolitan Magistrate, Hyderabad and perused the same in the presence of the learned counsel for the petitioners as well as the learned Public Prosecutors for both the States. As seen from the record, for one reason or the other, the learned III Additional Chief Metropolitan Magistrate, Hyderabad framed charges against the petitioners and others under the impression that he has jurisdiction to entertain the case.

10 At this juncture, the learned counsel for the petitioners has drawn my attention to the ratio laid down in ***Y.Abraham Ajith & Ors. Vs. Inspector of Police, Chennai & Another***^[1] wherein the Hon'ble apex Court held at para Nos.18 and 19 as follows:

18. In *Halsbury's Laws of England* (4th Edn.) it has been stated as follows:

“Cause of action” has been defined as meaning simply a factual situation, the existence of which entitles one person to obtain from the court a remedy against another person. The phrase has been held from earliest time to include every fact which is material to be proved to entitle the plaintiff to succeed, and every fact which a defendant would have a right to traverse. ‘Cause of action’ has also been taken to mean that a particular act on the part of the defendant which gives the plaintiff his cause of complaint, or the subject-matter of grievance founding the action, not merely the technical cause of action.”

19. When the aforesaid legal principles are applied, to the factual scenario disclosed by the complainant in the complaint petition, the inevitable conclusion is that no part of cause of action arose in Chennai and, therefore, the Magistrate concerned had no jurisdiction to deal with the matter. The proceedings are quashed. The complaint be returned to Respondent 2 who, if she so chooses, may file the same in the appropriate court to be dealt with in accordance with law. The appeal is accordingly allowed.

11 Even as per the allegations made in the complaint, no part of cause of action arose within the territorial jurisdiction of the Court of the III Additional Chief Metropolitan Magistrate, Hyderabad. This fact is admitted by the learned Public Prosecutors. When no part of cause of action arises within the territorial jurisdiction of a particular Court, it has no jurisdiction to take cognizance of the offences and frame charge to proceed further. Any charges framed in pursuance of taking of cognizance without having proper jurisdiction, is *non-est* in the eye of law. Therefore, this Court is inclined to set aside the orders passed by the learned III Additional Chief Metropolitan Magistrate, Hyderabad so far as taking of cognizance as well as framing of charges.

12 Having regard to the facts and circumstances of the case and also in the light of the principle laid down in the case cited supra, these two Criminal Petitions are allowed setting the order of the learned III Additional Chief Metropolitan Magistrate, Hyderabad to the extent of taking cognizance of the offences as well as framing of charges against the petitioners. The learned III Additional Chief Metropolitan Magistrate, Hyderabad is hereby directed to return the case bundle to the police concerned for being presented before the appropriate Court for trial and disposal. Registry is directed to transmit the entire case bundle to the

learned III Additional Chief Metropolitan Magistrate, Hyderabad forthwith.

13 As a sequel to the disposal of these two Criminal Petitions, miscellaneous petitions, if any, pending in these petitions shall stand closed.

T. SUNIL CHOWDARY, J

Date: 7th June, 2016

Kvsn

[\[1\]](#) (2004) 8 SCC 100