

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.3256 of 2013

ORDER:

In this petition filed under Section 482 Cr.P.C., petitioners/A.1 to A.3 seek to quash the Proceedings in C.C.No.172 of 2011 on the file of Judicial Magistrate of First class, Vayalpad, Chittor District.

2) The Police of Vayalpad Police Station filed Charge sheet against A.1 to A.3 for the offences under Sections 199, 423, 477-A, 447, 324 and 323 IPC in Cr.No.73 of 2011 and the learned Judicial First Class Magistrate, Vayalpad, took cognizance of the offences and registered the same as C.C.No.172 of 2011 against the above said accused. The charge sheet allegations are that Ac.1.37 ½ cents in Sy.No.346/A of Vayalpad Village belongs to the complainant and he has been in effective possession and enjoyment of the same. The father of A.1 also owned a similar extent in the said survey number. Both the complainant and the father of A.1 failed to obtain pattadar pass books and title deeds from the revenue authorities in respect of their lands. While so, A.4 and A.5 approached A.1 to A.3 to purchase their land. At that time, A.1 to A.3 hatched a conspiracy to knock away the property of the complainant by using their influence with revenue officials. Accordingly, A.1 to A.3 obtained pattadar passbooks and title deeds just prior to June, 2011 in favour of A.5 in respect of complaint's land behind his back knowing

fully well that they have nothing to do with the land. The further case of the prosecution is that on 14.01.2010 at about 09.00 am when the complainant went to his land, A.4 and A.5 along with their followers high handedly tried to trespass into the complainant's land and make constructions for which the complainant objected and then A.4 and A.5 caught hold the complainant by his collar and beat him with hands and legs and also with stones. The complainant suspects that A.1 to A.3 instigated A.4 and A.5 in this regard. Again, on 16.01.2011 at 10.00 am, A.4 and A.5 came to the complainant along with their followers and threatened him that if he does not part with the land, they would take the support of radicals and eliminate him. Hence, the complaint.

3) The charge sheet reads that since the complainant failed to produce wound certificate in proof of A.4 and A.5 making physical assault on him, police after investigation omitted A.4 and A.5 and filed charge sheet against A.1 to A.3 only. Hence, the instant petition by petitioners/A.1 to A.3.

4) Denying the charge sheet allegations, learned counsel for the petitioners submitted that they are innocent and they have not made any attempts influencing the revenue officials to obtain pattadar passbooks and title deeds in the name of A.5 in respect of the alleged land of the complainant. Learned counsel further submitted that in fact the first petitioner is owner of Ac.2.83 cents and one Nagamma purchased the said land from him under registered Sale Deed dt. 24.06.2010.

Later, she filed O.S.No.09/2011 on the file of Junior Civil Judge, Vayalapd against the petitioners and the complainant and the said suit is pending. She obtained *ad interim* injunction in the said suit. While so, one M. Sabjan Baig and eight others filed O.S.No.23 of 2011 on the file of Junior Civil Judge, Vayalapad, against K. Nagamma for declaration of the title and for partition of the suit schedule property in an extent of Ac.1.37 ½ cents in Sy.No.346/A of Vayalapd village. Thus, civil disputes have been pending between the parties and some others even before the complaint. The present complaint was filed only with a malafide intention to implicate the petitioners in a false case. He thus prayed to quash the proceedings.

5) Per contra, learned counsel for respondent No.2/complainant submitted that in this case police already filed charge sheet after thorough investigation and the case is coming up for framing of charges and therefore, at this stage the proceedings may not be quashed.

6) A close scrutiny of the charge sheet allegations and submissions made by both sides would show that the complaint is an outcome of the civil disputes between the parties and some 3rd parties. The main allegation of the complainant is that A.1 to A.3 obtained pattadar passbooks and title deeds in favour of A.5 in respect of their land and also the land of complainant by misleading the revenue officials.

No material is produced whether the complainant raised any protest before the revenue authorities for the said alleged high handed acts of A.1 to A.3. Even if the charge sheet allegations are true, the pattadar passbooks and title deeds of the complainant's land were obtained in the name of A.5 and not in the name of A.1 to A.3. A.4 and A.5 were already deleted from the charge sheet for the reason that no would certificate was produced by the complainant. Having regard to the strong civil nature of the case and no *prima facie* material is produced against A.1 to A.3, in my considered view, continuation of the Criminal Case against the petitioners will be nothing but abuse of process of the Court.

7) Accordingly, this Criminal Petition is allowed and the proceedings against the petitioners/A.1 to A.3 in C.C.No.172 of 2011 on the file of Judicial Magistrate of First Class, Vayalpad, Chittor, are quashed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Dt: 06.06.2016

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