

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.11134 OF 2009

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/A-2 in Crime No.374 of 2009 on the file of Raidurgam Police Station, Cyberabad registered for the offences under Sections 447, 427 and 506 I.P.C.

2. Heard the learned counsel for the petitioner and the learned Public Prosecutor representing the State.

3. A perusal of the record reveals that the petitioner is A-2 and the second respondent is the *de facto* complainant in Crime No.374 of 2009. As per the allegations made in the complaint, the second respondent started development work in land admeasuring Ac.8.13 guntas and Ac.15.10 guntas in Sy.Nos.39 and 41 respectively of Gachibowli Village, Serilingampally Mandal, Ranga Reddy District. It is further alleged that when the construction work was in progress, the petitioners herein and others trespassed into the land and created nuisance.

4. Whether the petitioner has committed the alleged offences or not will come to light during the course of investigation only. If this Court expresses any opinion, the same may cause prejudice to one of the parties to the proceedings.

5. 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 petitioner,

then this Court can quash the proceedings in order to prevent abuse of process of Court thereby to secure the ends of justice.

6. 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.

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

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

9. Having regard to the facts and circumstances of the case, the Station House Officer, Raidurgam Police Station, Cyberabad is hereby directed not to arrest the petitioner/A-2 till completion of investigation in Crime No.374 of 2009.

10. 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

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

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DATE:03.3.2016

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