

**THE HON'BLE SRI JUSTICE U.DURGA PRASAD
RAO**

Crl.P.No.12091 of 2013

ORDER:

In this petition filed under Section 482 Cr.P.C., the petitioners/A1 to A6 seek to quash the proceedings in C.C.No.50 of 2012 on the file of IV Additional Judicial First Class Magistrate, Warangal.

2) The second respondent herein gave complaint, basing on which the police of Subedari P.S registered FIR No.146 of 2010 and after investigation laid charge sheet against A.1 to A.6 and learned IV Additional Judicial First Class Magistrate, Warangal took cognizance for the offences under Sec.447, 420 and 506 r/w 34 IPC. The prosecution case is that LW.1 is the complainant and LW.2 is her son. A.1 to A.6 are residents of Hunter road, Hanamkonda. LW.1 is a teacher. During the year 1985, the original pattadar of the land bearing Sy.No.29 has given a GPA to one Alluri Murthy Raju vide document No.159 dt:18.09.1985 and on the strength of the said document, the GPA holder—A.Murthy Raju divided the land into house plots and sold to Executive Police Officers Cooperative housing Society Limited of Warangal vide register No.703 TT. LW.1 entered into an agreement with A. Murthy Raju to purchase plot

Nos.34 and 35 admeasuring 624 sq.yards in Sy.No.29 situated at Shayampet for an amount of Rs.20,000/- and got registered in her name. Later she gifted those plots to LW.2 who is her son on 07.10.2009 vide document Nos.16054 to 16059. While so on 06.04.2010 when LW.1 went to the plot, she found a building was under construction in the said plot and also in the border plots. On enquiry, she came to know that A.1 is constructing the said building and he claimed that he purchased the said plot from one Bhukya Kishan. LW.1 further came to know that A.3 has gifted plot No.34 belonging to LW.1 to his wife i.e, A.4 under a gift settlement deed and A.2 gifted plot No.35 belonging to LW.1 to A.6. Further, on 18.04.2010 when LW.1 and LW.2 went to their plots, A.1 to A.6 came there and criminally trespassed into their plots and abused them in an unparliamentary language and threatened them with dire consequences that if LWs.1 and 2 come to those plots they would kill them. It is the case of LW.1 that A.2 and A.3 have cheated her by registering her plot nos.34 and 35 in favour of their family members i.e, A.4 and A.6 under a gift settlement. Whereas A.1 and A.5 have knowingly purchased the said plots and part of the land of LWs.3 and 4 from Bhukya Kishan Naik who is no way concerned with those plots and A.1 illegally constructed the house by trespassing into

the land.

3) Denying the charge sheet allegations, learned counsel for petitioners argued that there are some civil disputes between the parties and in fact A.5 filed O.S.No.813 of 2010 before the II Additional Junior Civil Judge at Warangal against the 2nd respondent/*defacto* complainant and another and obtained perpetual injunction and in that view of the matter, the allegations that the accused trespassed into her land does not arise. He submitted that the entire charge sheet allegations depict civil litigation and therefore, even if the charge-sheet allegations are accepted to be true, they do not disclose the commission of any criminal offence and hence the proceedings in C.C.No.50 of 2012 on the file of IV Additional Judicial First Class Magistrate, Warangal may be quashed.

4) It is seen that earlier the petitioners filed CrI.P.No.13204 of 2011 seeking to quash the proceedings in FIR No.146 of 2010 of Subedari PS, Warangal District and this Court while declining to quash the proceedings directed the police to investigate the matter and file final report either way without arresting the petitioners/A.1 to A.6. After completion of investigation, police laid charge sheet, which was taken cognizance by learned IV Additional

Judicial First Class Magistrate, Warangal and registered case in C.C.No.50 of 2012.

5) In these circumstances, I feel, it is not to apt to quash the proceedings in C.C.No.50 of 2012. Further, a perusal of the copy of the judgment in O.S.No.813 of 2010 on the file of II Additional Junior Civil Judge at Warangal, filed by the petitioners would show that in said suit, the plaintiff therein claimed ownership in respect of land covered by Survey No.30/A of Shayampet Jagir of Hanamkonda Mandal. Whereas in the instant case the *defacto* complainant claims right in respect of Sy.Nos.34 and 35 covered by Sy.No.29 of Shayampet. Whether both the properties are one and the same or not has to be decided after full-fledged trial. For this reason also, it is not apt to quash the proceedings. However, if the petitioners are so advised, they may move trial Court with an appropriate application seeking their discharge, in which case the trial Court shall pass an appropriate order on merits.

6) With these observations the Criminal Petition is disposed of.

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

U.DURGA PRASAD RAO, J

Dt: 01.06.2016

SCS