

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.15870 OF 2016

ORDER:

This petition is filed under Section 482 of Cr.P.C. seeking to quash the proceedings in C.C.No.367 of 2013 pending on the file Judicial Magistrate of First Class, Banswada for the offences punishable under Sections 448, 427, 290 and 506 read with 34 of I.P.C.

Petitioners 1 to 3 herein are accused in the said crime and allegedly trespassed into the house of defacto complainant bearing door No.1-28 on 19-5-2013 and demolished the wall.

The defacto complainant lodged a complaint but police did not take any action. In private complaint, it is specifically alleged that on 19-5-2013 at about 10 A.M., the accused 1 to 3 with criminal intention unlawfully entered into the house of the defacto complainant and demolished brick wall which is constructed investing an amount of Rs.16,000/- and at that time, when the defacto complainant intervened and asked the accused, they informed that they intend to purchase the property and thus they bore grudge against the defacto complainant who purchased the property and hence, caused damage to the wall.

Learned counsel for the petitioners pointed out certain discrepancies in the evidence collected by Investigating Officer and in the complaint of the defacto complainant but at this stage, it

cannot be taken into consideration to decide as to whose statement is correct.

Jurisdiction of this Court under Section 482 Cr.P.C. is limited and as such, jurisdiction can be exercised sparingly only giving effect to the code of Criminal Procedure to abuse the process of court and to secure the ends of justice. Hence, Jurisdiction of this court under Section 482 Cr.P.C. is limited in the guidelines issued by apex Court in State of *HARYANA v. BHAJAN LAL* ⁽¹⁾ and it is pertinent to extract guideline No.1 among seven guidelines and hence, guideline No.1 is extracted as under:

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

The inherent power is to be exercised ex debito justitiae, to do real and substantial justice, for administration of which alone Courts exist. Wherever any attempt is made to abuse that authority so as to produce injustice, the Court has power to prevent the abuse. It is, however, not necessary that at this stage there should be a meticulous analysis of the case before the trial to find out whether the case ends in conviction or acquittal as held in *DHANALAKSHMI v. R.PRASANNA KUMAR* ⁽²⁾, *RUPAN DEOL BAJAJ v. KANWAR PAL SINGH GILL* ⁽³⁾ and *MADHAVRAO JIWAJI RAO SCINDIA AND*

¹ 1992 Supplement (1) SCC 335

² 1990 Supp SCC 686

³ 1995 (6) SCC 194

ANOTHER v. SAMBHAJIRAO CHANDROJI RAO ANGRE AND OTHERS (⁴) and what is to be applied by this court is whether the uncontroversial allegation has made prima facie establish the offence.

In view of the law laid down by the apex court referred supra, this court at this stage can look at the allegations made in the complaint or charge sheet and not more than that to come to a conclusion that the uncontroversial allegation made in the charge sheet would constitute any offence punishable under Sections 448, 427, 290 and 506 read with 34 of I.P.C.

If the same principle is applied to the present facts of the case, the allegations made in the charge sheet would prima facie constitute offence, if proved during trial, therefore, in those circumstances, it is difficult to exercise jurisdiction under Section 482 of Cr.P.C. to quash the proceedings for the offences punishable under Sections 448, 427, 290 and 506 read with 34 of I.P.C. Basing on the discrepancies, advocate pointed out during hearing. However, it is left open to the petitioners to raise all permissible defences in the trial in the trial court.

In view of the foregoing discussion, I find no ground to quash the proceedings and consequently, this petition is liable to be dismissed.

Accordingly, this Criminal Petition is dismissed.

⁴ AIR 1988 SC 709

As a sequel to the disposal of this petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE M.SATYANARAYANA MURTHY

Dated 10-11-2016.

Dvs.



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Dated 10-11-2016.

Dvs