

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.13871 OF 2016

ORDER:

This criminal petition is filed under Section 482 of Cr.P.C to quash the proceedings in Crime No.176 of 2016 on the file of Station House Officer, Kandukuru Police Station, Cyberabad, East, for the offences punishable under Sections 447, 327 R/w 34 IPC.

As per the complaint dated 24.08.2016, it is the case of the defacto complainant that he is representing on behalf of his clients Nuruddin Mandani (NRI) & Khairunissa Mandani (NRI) both R/o.226, Harborview Drive, Dunedin, Florida, USA-34698, making certain allegations that the petitioner without any right trespassed into the property, damaged the marking stones with the help of JCB and removed the plantation.

Proceedings in crime are challenged on various grounds.

The first contention before this Court is that the petitioner filed suit O.S.No.2284 of 2007 dated 02.07.2008 against the respondents seeking permanent injunction. The Trial Court believing that the petitioner is in possession of the property situated in Sy.No.84/2/AA/16/3 in Pulimamidi Village of Kandukuru Mandal Ranga Reddy District, granted permanent injunction, thereby, question of interfering and trespassing into the property does not arise which is punishable under Sections 447, 327 R/w 34 IPC.

The other contention is that the petitioner also obtained police protection to implement the decree of Civil Court against the respondents. Therefore, when the petitioner is not in possession of the property, the question of trespassing into the property allegedly belonging to the NRIs does not arise and prayed to quash the same, since the complaint does not disclose any allegation to constitute offences punishable under Sections 447, 327 R/w 34 IPC on its face value.

During hearing, learned counsel for the petitioner reiterated the grounds urged in the petition while contending that the property allegedly belongs to the petitioner and the subject matter of the property in O.S.No.2284 of 2007 on the file of the Prl. Senior Civil Judge, Ranga Reddy is one and the same and that the defacto complainant is incompetent to lodge the complaint for the alleged offences.

Whereas, Sri T. Pradyumna Kumar Reddy, learned counsel for the 2nd respondent supported the complaint lodged with the police while admitting that there is no specific authorisation in writing to lodge the complaint with the police. But still, the learned counsel contended that the allegations made in the complaint would constitute an offence on its face value.

It is a strange case where the defacto complainant lodged a complaint on behalf of the NRIs. But the defacto complainant is neither an advocate enrolled himself on the rolls of Andhra Pradesh/Telangana Bar Council, nor he is the power of attorney holder representing the said two NRIs to lodge the complaint.

No written authorization is produced before this court and even the complaint is silent regarding the issue of any authorization by the said two NRIs to lodge a complaint with the police or to lookafter their property. The 2nd respondent has nothing to do with the property to lodge a complaint without any power or authority, with the police.

More curiously, the police acted upon the said complaint and registered a crime against the petitioners. When such complaint was lodged by an unauthorised person who has nothing to do with the property, the police registered a crime and acted on such complaint. The action of the police is nothing but abuse of power and in such case, this Court can exercise jurisdiction under Section 482 of Cr.P.C, since Section 482 of Cr.P.C conferred on the High Court to give effect to any order, to prevent abuse of process of any court, to secure ends of justice.

The Apex Court in **State of Haryana v. Bhajan Lal**¹, considered in detail the provisions of Section 482 and the power of the High Court to quash criminal proceedings or FIR. Guideline No.1 of the judgment states that 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 Court can exercise its jurisdiction to quash the proceedings under Section 482. Similarly, Guideline No.5 authorised this Court to quash the proceedings where the allegations made in the FIR or complaint are so absurd and

¹ 1992 Supp (1) SCC 335

inherently improbably on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

In the present facts, the very lodging of complaint with the police by the petitioner is absurd, as the petitioner has nothing to do with the property or rights in the property. This itself is suffice to quash the proceedings, since it is an abuse of process of law.

The other ground urged before this Court is that the petitioner obtained a permanent injunction in O.S.No.2284 of 2007. But there is a little discrepancy with regard to survey number which both parties are claiming. However, I am not inclined to record any finding explaining the discrepancy of survey numbers of the property claimed by both the parties.

As per my findings in the earlier paragraphs, the proceedings in Crime No.176 of 2016 on the file of Station House Officer, Kandukuru Police Station, Cyberabad, East, for the offences punishable under Sections 447, 327 R/w 34 IPC are quashed.

In the result, the criminal petition is allowed.

Consequently, miscellaneous petitions, if any, pending in this criminal petition, shall stand closed. No costs.

M. SATYANARAYANA MURTHY, J

Date:09.11.2016
SP