

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.16085 OF 2016

ORDER.

This Criminal Petition is filed under Section 482 of Cr.P.C. to quash the proceedings in C.C.No.574 of 2016 pending on the file of VIII Metropolitan Magistrate, Cyberabad at Upperpally, Hyderabad, for the offence punishable under Section 384 of I.P.C.

It is the case of the petitioners that there were several civil proceedings including writ proceedings pending before the court and this court issued a direction not to raise any constructions till obtaining permission from the Endowments Department for alienation of land.

Petitioners are Brahmachary Matt who allegedly owned and possessed certain land in S.No.344 at Rambagh, Attapur and the petitioners and their henchmen came to the house of the defacto complainant-respondent which is under construction and warned not to construct the house and they came from Endowments Department and demanded Rs.51,000/- for giving permission for construction of the house and threatened with dire consequences, warning not to construct the house. and thereby allegedly committed offence punishable under Section 384 of I.P.C.

Learned counsel for the petitioner drawn the attention of this court to the earlier proceedings in W.P.No.35210 of 2013 dated 6th December, 2013 wherein this court passed the following order:

“No construction shall be carried out in the land belonging to the Matt, without obtaining prior permission from the competent authority for alienation of the Mutt land.”

This order is still in force despite filing of a petition to vacate the said interim order, no order has been passed till today in that petition.

It is also clear from the record that one TarunKumar and others also filed a suit in O.S.No.159 of 2013 before the Additional Junior Civil Judge-cum-XVII Metropolitan Magistrate, Cyberabad at Rajendranagar, against the matt.

Here it is pertinent to extract Section 383 of I.P.C. which reads as follows:

“Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed which may be converted into a valuable security, commits “extortion”.

Petitioners allegedly demanded Rs.51,000/- while obstructing the defacto complainant in connection with construction of house in the land in question and demanding of such amount, on the face value of the allegations made in the complaint would amount to extortion as defined under Section 383 of I.P.C. The truth or otherwise made in the complaint or charge sheet has to be decided during the course of trial but not at this stage before this court as the jurisdiction of this court is limited. Even according to the guideline No.1 in a decision in *STATE OF HARYANA V. BHAJANLAL* (¹), this court can exercise the jurisdiction only when the allegations made in the complaint or charge sheet on its face value would not constitute an offence. Here allegations made in the complaint would constitute an offence.

¹ 1992 supplement (1) S.C.C.335

Learned Public Prosecutor for the State of Telangana would contend that the Government granted permission to raise construction and the same is in the mid way and at this stage, the proceedings cannot be quashed.

Undoubtedly, this court at this stage need decide the validity of permission if any by the concerned authorities for raising construction. Therefore, when the allegations made in the charge sheet would constitute an offence punishable under Section 383 of I.P.C. on its face value, this court cannot exercise jurisdiction under Section 482 Cr.P.C.

However, petitioners are permitted to raise all the pleas which are legally permissible under law before the VIII Metropolitan Magistrate, Cyberabad at Upperpally, Rajendranagar, Rangareddy district during trial and consequently, this Criminal Petition is liable to be dismissed.

Accordingly, this Criminal Petition is dismissed. No costs.

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

JUSTICE M.SATYANARAYANA MURTHY

Dated 21-11-2016

Dvs.

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY



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Dated 21-11-2016

Dvs