

HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

CRIMINAL PETITION No.9485 OF 2011

ORDER

This criminal petition is filed under Section 482 Cr.P.C. for quashing the proceedings in P.R.C.No.12 of 2011 on the file of the Special Mobile Court, Ongole.

The brief facts of the case are that, the 2nd respondent lodged a complaint against the petitioners herein alleging that her husband established an Industry under the name and style of "Sri Saibaba Chemicals Factory" at Plot Nos.610, 611 at Growth Centre (APIIC), Gullapalli. On 06.05.2007, her husband died in a road accident. Therefore, the factory was leased out to petitioner No.1, under a lease deed, for a period of three years, on payment of lease of Rs.20,000/-, and for the remaining three years at the rate of Rs.30,000/- per month. The petitioner No.1 has committed default in payment of the lease amount and also shifting the material from the factory, and selling the same. On 13.03.2011 at about 11 A.M., when the 2nd respondent went to the factory, she found missing of material worth Rs.20 lakhs, and questioned him. The petitioners humiliated her and driven her out of the industry and closed the factory.

The 2nd respondent lodged a complaint to police and a case in Crime No.35 of 2011 was registered and police filed charge sheet for the offences punishable under Sections 406, 354 and 506 of I.P.C. before the Special Mobile Court, Ongole and it is numbered as P.R.C.No.12 of 2011. Aggrieved by the same, the petitioners have filed the present petition to quash the proceedings.

Heard learned counsel for the petitioners and respondent.

Learned counsel for the petitioners submitted that this is a civil matter pertaining to a lease transaction. The ingredients of Sections 406, 354 and 506 of I.P.C. are not present in this case as the transaction is of civil in nature. Therefore, the proceedings against P.R.C. may be quashed.

Learned counsel for 2nd respondent submitted that the ingredients of the above offences are present in the complaint and there are no valid grounds for quashing the proceedings. It is further submitted that the proceedings cannot be quashed at the stage of P.R.C. The accused has not denied the execution of lease deed and the machinery installed in the premises was there or not is a question of fact. It can be decided only during trial. Therefore, sought for dismissal of this petition.

At the outset, this is a case of landlord-2nd respondent leasing out the property to the accused under a lease agreement. It appears that there is a dispute with regard to arrears of payment of lease amount. It is also seen from the complaint and the charge sheet that there are allegations with regard to disposing of the machinery in the factory which was leased out to the accused. It is also alleged in the complaint that the accused behaved indecently by assaulting and scolding her and pushed 2nd respondent out of the factory, when she had asked him about the missing of the machinery from the factory. The perusal of complaint and charge sheet *prima facie* reveal that there are ingredients of alleged offences and the case is a P.R.C. (Preliminary Registered Case) and there are disputed questions of fact in this matter, as to whether the machinery belongs to the *de facto* complainant or the accused and whether the accused insulted her by pushing her out. All these allegations can be gone into at the time of evidence in trial of the case. Therefore, having

regard to the facts and circumstances of the case, this is not a fit case where the proceedings in the P.R.C. can be quashed at this stage. Since trial is to be conducted in this case, the petitioners are given liberty to file a petition before the trial Court for dispensing their presence and the trial Court shall consider the same.

In the result, the Criminal Petition is dismissed giving liberty to the petitioners to approach the trial Court by filing a petition, and the trial Court shall consider the same. Interim stay granted on 30.09.2011 in CrI.P.M.P.No.10347 of 2011 is hereby vacated.

The Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

GUDI SEVA SHYAM PRASAD,J

Date : 11.10.2017
ssp

