

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.13528 of 2011

ORDER:

This petition is filed seeking for quash of the proceedings in CC.No.1313 of 2010 on the file of the X Additional Chief Metropolitan Magistrate, Secunderabad. The offences alleged are under Sections 468, 471, 420 read with Section 506 of the Indian Penal Code, 1860.

2. Heard the counsel for the petitioner, the counsel for second respondent and the learned Public Prosecutor, who takes notice for the first respondent.

3. The complaint is filed stating that the complainant purchased a disputed property from the vendors and started construction in the said land and then the accused came to the said land with some documents, which are allegedly, forged and threatened him.

4. The counsel for the petitioner now brings to the notice of this Court the earlier litigation that went on between the parties in respect of the land in O.S.No.1664 of 2002 on the file of the XVIII Junior Civil Judge, Secunderabad, seeking injunction against no other than the petitioner herein and the said suit was dismissed. Thereafter, an appeal was preferred and the appeal was also dismissed by confirming the order of the Court below. Thereafter, SA.No.604 of 2009 was filed, which also resulted in dismissal. Thereafter SLP.No.29911 of 2011 was filed and the same was dismissed on 28.03.2011 and the review petition filed against the same was also dismissed on 02.08.2011.

5. All these facts are not disputed by the counsel for the second respondent. But his contention is that it is not a comprehensive suit. However, the averments of the complaint would show that while the complainant was in possession of the suit schedule property, the petitioner herein tried to encroach the land, with the help of forged documents. In such a case, even if it is not a comprehensive suit, when the possession of the complainant was not believed by all the Courts, which dealt with the said litigation, it strikes at the very basis of the complaint and its credibility with regard to possession. Hence, this Court opines that the complaint is filed only in order to somehow seek a remedy for the grievance of the complainant, having failed in the earlier round of litigation. Hence, it would be sheer abuse of the process of law to permit the complainant to proceed with the said complaint.

The criminal petition is allowed and the proceedings in CC.No.1313 of 2010 on the file of the X Additional Chief Metropolitan Magistrate, Secunderabad, against the petitioner, are hereby quashed. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

December 15, 2017
DSK

T. RAJANI, J