

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.6408 of 2011

ORDER:

This petition is filed seeking for quashment of the proceedings against the petitioners, who are accused in C.C.No.548 of 2006 on the file of II Additional Chief Metropolitan Magistrate, Vijayawada, Krishna District.

2. Heard the counsel for the petitioners and the Public Prosecutor appearing for the 3rd respondent. None appears for respondent Nos.1 and 2.

3. The complaint is filed, stating that the complainant is the tenant of Nageswaramma, who is the sister-in-law of petitioner No.1, and related to petitioner Nos.2 to 7. Petitioner Nos.8 and 9 are the tenants of petitioner No.1. The complaint, which was filed by the complainant, was referred for investigation and final report was filed closing the case as false. Later, on the protest petition filed by the complainant, the case was taken cognizance and now the petitioners come before this court seeking for quash of the order taking cognizance on the protest petition.

4. The petitioners' counsel takes this court through the background facts of the case. ATC No.1 of 1995 was filed by the *de facto* complainant against some third party, which was dismissed and in the appeal, the same was allowed. The *de facto* complainant herein and Nageswaramma filed suit viz., O.S.No.640 of 2004 before the Court of I Additional Junior Civil Judge, Vijayawada, seeking for injunction against the petitioners herein, wherein I.A.No.365 of 2004 was also filed

seeking for interim injunction and the court below dismissed the said petition holding that the petitioners therein did not prove the possession of the property. Aggrieved by the said order, an appeal viz., CMA No.105 of 2005 was preferred and the same was also dismissed on the same grounds. The order in CMA No.105 of 2005, which is preferred against the dismissal order in the injunction petition, is also filed, which shows that the possession of the appellants therein is not believed. Hence, in the light of all the background litigation, it has to be concluded that the complaint is filed only to harass the petitioners and to some how redress the grievance of the complainant. The dispute seems to be purely civil dispute and the allegations with regard to the petitioners coming on to the disputed site seem to be only inventions, in order to some how substantiate their pleas.

5. In the above circumstances, the continuation of proceedings against the petitioners would only be an abuse of process of law.

6. With the above observations, the Criminal Petition is allowed and the proceedings in C.C.No.548 of 2006 on the file of II Additional Chief Metropolitan Magistrate, Vijayawada, Krishna District, are hereby quashed.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

T. RAJANI, J

December 27, 2017
LMV