

HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

CRIMINAL PETITION No.10262 of 2011

ORDER:

This criminal petition is filed under Section 482 of Cr.P.C. to quash the proceedings in M.C.No.202 of 2011 on the file of the Family Court Judge, Nampally, Hyderabad.

Heard learned counsel for the petitioner and learned Public Prosecutor. Notice served to respondent No.1, but none appeared on her behalf.

Learned counsel for the petitioners submitted that the petitioners' father died intestate and the respondent No.1 is the second wife of their father. The petitioners do not have any acquaintance with respondent No.1 except, the fact that she married their father. It is further submitted that the respondent No.1, being the widow of their father, the petitioners are not responsible to pay any maintenance to her. Hence, prayed to quash the proceedings.

Learned Public Prosecutor opposed the quash petition.

At the outset, this criminal petition is filed by the petitioners, who are the sons of late Ashraf Hussain Shaik for quashing the proceedings in M.C.No.202 of 2011 on the file of Family Court, Nampally, Hyderabad. Late Ashraf Hussain Saik after divorcing his first wife has married the 1st respondent as second wife. His first wife's children are the petitioners herein. After the death of late Ashraf Hussain Shaik, his second wife has filed a maintenance case against the sons of late Ashraf Hussain Shaik claiming maintenance. She has also filed a suit O.S.No.2591 of 2010 for partition and separate possession of her share of 16/128th in the plaint A and B schedule properties. Since there are civil disputes pending between

the parties and the petitioner has demanded maintenance, the filing of present criminal petition is an abuse of process of Court. Hence, this Court is not ordered to grant any relief by exercising inherent power under Section 482 of Cr.P.C. The parties may agitate their rights before the Family Court, where the maintenance case is pending. There are disputed questions of fact involved in this case. Therefore, this Court cannot sit in review or appeal to decide the rights of the parties in respect of maintenance case and civil suit. Therefore, there are no valid grounds to interfere with the proceedings in the Maintenance Case as the maintenance case is pending before the Family Court for adjudication. The parties may agitate their rights before the Family Court.

In view of the facts and circumstances of the case, the Criminal Petition is dismissed, leaving it open to the petitioners to exhaust their remedies available to them before the Family Court for redressal of their grievance.

The Miscellaneous Petitions, if any, pending shall stand closed.

GUDI SEVA SHYAM PRASAD,J

Date : 03.10.2017
ssp

