

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL PETITION No.5979 of 2010

ORDER:

Heard the counsel for the petitioners as well as the learned Public Prosecutor.

The present petition is filed by the petitioners to quash the proceedings initiated against them in Crime No.128 of 2010 of Police Station, Matwada, Warangal District for the offences under Sections 447 and 427 IPC.

The facts of the case are that the petitioners are the pattedars of the land in Sy.No.47/AA of Matwada village and when the 2nd respondent wrongfully attempted to dispossess them and others, they filed W.P.No.25168 of 2009 seeking to declare the action of the respondents therein in obstructing them from levelling their land in Sy.No.47/AA of Matwada village, Warangal District, by laying mud in it and interfering with the construction of the compound wall, as illegal and arbitrary and consequently direct the respondents not to interfere with their possession and developmental activities. This Court, on 27.11.2009, in WPMP.No.32791 of 2009 in W.P.No.25168 of 2009 granted interim direction as prayed for. When the petitioners were levelling their land with mud, the 2nd respondent, in violation of the abovesaid orders of this Court, has taken away the mud from the land and laid bund to the Kota Cheruvu occupying the land pertaining to the petitioners in Sy.No.47/AA of Matwada village. In those

circumstances, the petitioners filed C.C.No.399 of 2009, wherein, this Court, on 26.03.2010, has directed the Tahsildar as under:

“This application is filed with a prayer to appoint an Advocate Commissioner to ascertain the facts as to whether the 5th respondent is removing mud from the lands of the petitioners which has been laid by them pursuant to the order, dated 27.11.2009, in WPMP.No.32791 of 2009 in W.P.No.25168 of 2009.

Heard.

The Tahsildar, Warangal, 2nd respondent, is directed to visit the land in Sy.No.47/AA of Matwada village, with the assistance of the personnel from the Survey Department, and fix the boundaries with regard to an extent of Ac.6.00 in Sy.No.47/AA of Matwada village, purported to be belonging to the petitioners and submit a report, as to whether there are any activities being conducted by the 5th respondent in the said land, within three (3) days from the date of receipt of this order.

Post after one week.”

Thereafter, once again this Court considered the same and through orders, dated 29.04.2010, has permitted the petitioners to construct the wall, if any required. The said order reads as under:

“The report submitted by the Tahsildar, Warangal reveals that the entire land held by petitioners is private patta land and the mud was removed with some good intention to protect the water from Kota Cheruvu. It further reveals that the mud was removed from the land of the petitioners and a bund was created.

The Municipal Commissioner concerned is further directed not to interfere any further into the land held by petitioners, until further orders and the petitioners shall be allowed to construct wall, if any required, for protecting the land from inundation, submergence, etc.”

While the matter stood thus, the 2nd respondent filed a complaint, dated 17.06.2010, before the Station House Officer, Matwada Police Station, Warangal, stating that Rudra Sudhakar, Rekulapalli Ramdas, Rekulapalli Venkateshwar

Rao and others have damaged the Government property by removing the tank bund approximately 200 feet of Kota Cheruvu, due to which there is a threat of flooding of water from the tank. Therefore, in the larger interest of the locality people requested the Station House Officer to take suitable action against the said persons. In pursuance of the said complaint/letter, Crime No.128 of 2010 was registered for the offences under Sections 447 and 427 IPC. Aggrieved by the registration of the said crime, the petitioners have filed the present petition to quash the proceedings initiated against them.

The counsel for the petitioners would contend that the land in Sy.No.44/AA is a patta land and the 2nd respondent has no authority in law to interfere with their peaceful possession and enjoyment of the same. To support his contention, he brought to the notice of this Court the proceedings issued by the Tahsildar, dated 03.04.2010 and 06.04.2010, addressed to the learned Government Pleader for Revenue and the Registrar (Judicial) of this Court. In both the proceedings it is categorically mentioned that the land in Sy.No.47 is a patta land and the total extent of land in Sy.No.47/AA is Ac.6.00 guntas, and out of the said extent, an extent of Ac.1.03 guntas is submerged in Kota Cheruvu Water (Shikham) and remaining extent is covered with structures, plots and open area. For convenience, the relevant portion is as under:

“Actually, the Sy.No.47 of Mattewada Revenue Village is having an extent of Ac.12.13 gts and it is patta land and that Sy.No. was sub-divisioned as 47/A, an extent of Ac.6.13 gts and 47/AA an extent of 6.00 acres. The Sy.No.47/A, and extent of Ac.6.13 gts are totally submerged in the Kota Cheruvu Water (Shikham) which is live source of Mattewada village. But, in Sy.No.47/AA, total extent of Acs.6.00 out of that an extent of Ac.1.03 gts also submerged in Kota Cheruvu Water (Shikham) and remaining extent is covered with structures, plots and open area. As per the report of the survey team in Sy.No.47/AA it seems that the mud removed and bund formed 2 mts height for the sake of improvement of ground water table, de-siltation and strengthens of tank under good intention by the staff and workers of the 5th respondent i.e., Municipal Corporation, Warangal.”

A perusal of the said material would indicate that in spite of there being an interim order passed by this Court, the 2nd respondent in a highhanded manner attempted to interfere with the peaceful possession of the petitioners in respect of the land in Sy.No.47/AA and, on the other hand, lodged a complaint with false allegations that the petitioners and others are trying to damage the public property. But, scrutiny of the letters addressed by the Tahsildar would prove contrary and the 2nd respondent has no authority in law to interfere with the land of the petitioners, which is admittedly a private patta land. Under these circumstances, there is no *prima facie* case or any substance in the complaint/letter lodged by the 2nd respondent before the Station House Officer, Matwada Police Station and as such, the continuation of proceedings in pursuance of Crime No.128 of 2010 against the petitioners would amount to abuse of process of the Court. Therefore, this Court feels that it is a fit case where

the proceedings initiated against the petitioners are liable to be quashed.

Accordingly, the criminal petition is allowed, quashing the proceedings initiated against the petitioners in FIR.No.128 of 2010 for the offences under Section 447 and 427 IPC of Police Station, Matwada, Warangal District.

Miscellaneous petitions, if any, shall stand closed.

JUSTICE P. KESHAVA RAO

Date: 04.12.2017.
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