

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1921 OF 2017

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by accused No.3 viz., Salibindla Prathap Reddy requesting to quash the proceedings in C.C. No.211 of 2015 on the file of XXVI Metropolitan Magistrate, Cyberabad, Maheshwaram, Ranga Reddy District.

2. The petitioner along with accused Nos.1 and 2 alleged to have committed the offences punishable under Sections 447 and 427 of the Indian Penal Code, 1860.

3. Heard Sri Srinivas Chitturu, learned counsel for the petitioner, and the learned Additional Public Prosecutor for the State of Telangana, and perused the material on record.

4. The main submission of the learned counsel for the petitioner has been that amongst accused Nos.1 to 3, accused Nos.1 and 2 were tried by the learned Magistrate in C.C. No.114 of 2014, which is the main case, and the case against the petitioner is split up and assigned C.C. No.211 of 2015, and, thereafter, the petitioner appeared before the learned Magistrate, obtained bail and has been attending the Court. The submission of the learned counsel has been that the judgment rendered by the learned Magistrate, in the main case i.e., C.C. No.114 of 2014, would clearly show that eye-witnesses

turned hostile and the evidence of the *de facto* complainant, who was examined as PW.1, and his mother as PW.2, do not reveal that they were in possession of the subject land, though, they claimed that it was gifted in favour of PW.1 by his grandfather. The learned counsel has drawn attention to the observations made by the learned Magistrate in paragraph Nos.9 and 12 of C.C. No.114 of 2014.

5. Paragraph No.9 is to the effect that PWs.3 and 4, who are alleged to be eyewitnesses, have completely turned hostile and even the panch witnesses for scene of offence, who were examined as PWs.5 and 6, have turned hostile. The observations in paragraph No.12 would show that the *de facto* complainant and his mother were not in possession of the subject land. Observing the same, the learned Magistrate disbelieved the complaint allegations and thereby acquitted accused Nos.1 and 2 in C.C. No.114 of 2014, which is the main case.

6. The learned Additional Public Prosecutor would not dispute as to the fact that there is no case against the petitioner herein. Even from a reading of the whole judgment in C.C. No.114 of 2014, it cannot be said that there is any observation or finding recorded against the petitioner. Hence, prosecuting the petitioner for the alleged offences, in the split up case, would amount to abuse of process of law.

7. Therefore, the Criminal Petition is allowed quashing the proceedings against the petitioner in C.C. No.211 of 2015 on the file of XXVI Metropolitan Magistrate, Cyberabad, Maheshwaram, Ranga Reddy District.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition stand closed.

A. SHANKAR NARAYANA, J

March 9, 2017.

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