

THE HON' BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.432 of 2017

ORDER:

The present petition is filed challenging the order dated 20.09.2016 in Crl.R.P.No.43 of 2015 passed by the learned Special Sessions Judge-cum-VII Additional District and Sessions Judge at Mahabubnagar, whereby and whereunder the dismissal order dated 06.10.2015 in Crl.M.P.No.1283 of 2015 in Crime No.59 of 2011 of P.S.Doulthabad, passed by the learned Judicial Magistrate of First Class, Kodangal, was confirmed.

Heard Sri K.Venkatesh Gupta, learned counsel for the petitioner, and the learned Additional Public Prosecutor for the State of Telangana appearing for the 1st respondent.

Precisely, the complaint of the petitioner is that in his absence, Accused No.1-respondent No.2 herein, being the Village Revenue Officer, by abusing his official power, fabricated the revenue records and got entered the name of his (V.R.O's) mother Smt. Shanthamma in pattadar column in respect of two lands admeasuring Ac.3.17 gts. and Ac.23.26 gts in Sy.Nos.46 and 47, respectively, of Sulthanpur village of Doulthabad Mandal, in the year 1998-99, by deleting the name of the father of the petitioner and, basing on such fabricated entries, got issued pattadar passbook and title deeds concerning the said two

extents and thereafter, alienated the land admeasuring Ac.3.17 gts to one Ediga Venkatamma under two registered sale deeds. When the petitioner-complainant went to his agricultural land on 06.06.2011, respondents 2 to 5 herein alleged to have threatened him with dire consequences if any legal action is initiated against them. Thereupon, the petitioner filed a report before the concerned police, but, since the police did not evince any interest in registering the crime, he has also filed the private complaint against the respondents 2 to 5 before the learned Judicial Magistrate of First Class at Kodangal, alleging the offences punishable under Sections 120-B, 420, 425, 464, 468 and 506 IPC and the said complaint was referred to the concerned police under Section 156 (3) of Cr.P.C.

After due investigation, the police, opining that the matter relates to civil dispute, filed the final report before the learned Magistrate stating so, on which, the petitioner filed a petition under Section 153 of Cr.P.C., which was numbered as Crl.M.P.No.2064 of 2013, requesting to order further investigation and the same was allowed. On further investigation, the concerned Station House Officer reiterated the earlier opinion that the matter relates to civil dispute. Pursuant thereto, the petitioner filed a protest petition, which is registered as Crl.M.P.No.1283 of 2015, requesting to take cognizance of the offences against the accused. The learned Magistrate, besides

recording the sworn statement of the petitioner, also examined two more witnesses cited by the petitioner, and having considered the matter in detail, dismissed the protest petition on 06.10.2015. Aggrieved thereby, the petitioner preferred the aforesaid Crl.R.P. The learned Sessions Judge recorded reasons in paragraphs 13 and 14 of the order under challenge and did not incline to entertain the revision and, accordingly, dismissed the revision by the order challenged herein.

Learned counsel for the petitioner would submit that the learned Sessions Judge went wrong in dismissing the revision petition as he did not properly appreciate the sworn statement of the petitioner and also the statements of the witnesses. He would further submit that the statements of the two witnesses would corroborate the statement of the petitioner in regard to the offence of criminal intimidation punishable under Section 506 of IPC and, thus, sought to set aside the order under challenge and allow the protest petition filed by the petitioner.

Perused the order under challenge. The learned Sessions Judge has given clear findings in paragraph 14 of his order, that the petitioner has maintained silence for about four months in filing the private complaint against the respondents 2 to 5 and, to invoke the jurisdiction of the criminal court as an afterthought, Section 506 of IPC was added alleging criminal intimidation to the defacto complainant giving rise to

the incident dated 06.06.2011 and thereby dismissed the Revision Petition. The said findings recorded by the learned Sessions Judge in the revision cannot be faulted. Admittedly, there was delay of four months in filing the private complaint and it appears the provision of Section 506 of IPC was added so as to bring within the fold or jurisdiction of the concerned learned Magistrate's Court.

At this stage, learned counsel for the petitioner would submit that there has been a civil suit pending between the parties and it has come up for trial. In such an event, unless a definite finding is recorded by the Civil Court in its judgment that the entries in the revenue records have been fabricated, it is difficult at this stage to set aside the order under challenge.

Hence, the Criminal Petition is dismissed at the stage of admission itself.

Miscellaneous applications, if any pending in the present petition, stand closed.

JUSTICE A.SHANKAR NARAYANA

24.01.2017
v v