

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.9018 of 2011

ORDER:

This petition is filed seeking for quash of the proceedings in CC.No.514 of 2006 (FIR.No.363 of 2004 on the file of the Police Station Rajendranagar, Cyberabad) on the file of the VIII Metropolitan Magistrate, Rajendranagar, Cyberabad, against the petitioners, who are A2 and A3 in the said CC.

2. Heard the counsel for the petitioners and the Public Prosecutor appearing for the 1st respondent and takes notice for the 2nd respondent.

3. The case was registered against the petitioners, who are A2 & A3 and A1, who died, for the offences punishable under Sections 447, 427 and 188 IPC based on the report of the MRO stating that the Urban Land Ceiling Authority declared the disputed survey numbers at Bandlaguda Khalsa Village belonging to one Manik Reddy and others as surplus land and that the possession was already handed over to the MRO on 02.08.1999 under the cover of panchanama. The said lands are under the custody of MRO. The petitioners and others have filed W.P.No.8431 of 2000 and this Court ordered to maintain *status quo*. It is stated in the complaint that on the inspection of the Government lands, it is noticed that the declarants, who are the petitioners herein, along with third parties, are illegally dumping gravel, through Lorries and making roads. Hence, it

was requested to arrange patrolling team to keep a watch on the illegal activities and seize the vehicles and book the persons.

4. The counsel for the petitioners refutes the contents of the report as regards possession being with the MRO with the help of the interim order that was passed by this court in WPMP.No.27144 of 2009 in WP.No.20845 of 2009.

5. A perusal of the report of the MRO reveals that this court in WP MP No.10958 of 2000 in WP No.8431 of 2000 by order dated 09.05.2000 has ordered to maintain *status quo*. Further, a perusal of the order passed by this court in WPMP No.27144 of 2009 in WP.No.20845 of 2009 shows that the interim direction, as prayed for, was granted. The prayer in the said MP is to issue interim direction to the respondents not to interfere with the possession and enjoyment of the petitioners in respect of the disputed lands. While issuing notice to the respondents therein, this court made the interim direction as such. Hence, in view of the said interim direction, the respondents are not supposed to interfere with the lands and the possession and enjoyment of the lands was also *prima facie* found to be in favour of the petitioners and the prayer made in the petition is as such. Hence, it has to be assumed that the possession with the petitioners herein was believed by the court before issuing the interim direction mentioned above.

5. This court by order, dated 06.07.2011, allowed WPNo.20845 of 2009 and Rule Nisi was made absolute. WP.No.8431 of 2000 mentioned in the report of the MRO is not

the same. But, however, the survey numbers, except Sy.No.103/13, mentioned in the report filed by the MRO and in WP.No.20845 of 2009 are one and the same. The report does not specify whether the petitioners were dumping material in Sy.No.103/13. All the survey numbers are mentioned together. Hence, unless the complaint makes out a clear case that the offence is in relation to Sy.No.103/13, which is not the subject matter of WP.No.20845 of 2009, the prosecution cannot be sustained against the petitioners.

6. When such is the position, the dumping of the gravel and making roads cannot be said to be illegal. The MRO, if he is aggrieved by the orders of this Court, has to approach this Court and get the interim order vacated. But he cannot get the petitioners herein implicated, stating that their activities of dumping gravel in the disputed lands are illegal. The complaint, which is misconceived, cannot be a basis for registration of crime against the petitioners. Hence, the continuation of further proceedings in CC.No.514 of 2006 on the file of Rajendranagar Police Station, Cyberabad, against these petitioners, would be an abuse of process of law.

7. With the above observations, the Criminal Petition is allowed and the proceedings in CC.No.514 of 2006 (FIR.No.363 of 2004 on the file of the Police Station Rajendranagar, Cyberabad) on the file of the VIII Metropolitan Magistrate, Rajendranagar, Cyberabad, against the petitioners, who are A2 and A3, are hereby quashed.

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

T. RAJANI, J

December 6, 2017
LMV

