

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.836 OF 2017

ORDER:

Requesting to quash the First Information Report in Crime No.824 of 2016 of Malkajgiri Police Station, Rachakonda Commissionerate, Medchal District under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code'), the present petition is filed.

2. The sole petitioner is arraigned as accused in the aforesaid crime. He alleged to have committed the offences punishable under Sections 447, 427 and 506 IPC.

3. The learned counsel for the petitioner pleaded the innocence and false implication of the petitioner.

4. Heard Sri B. Chandrasekhar, learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State of Telangana.

5. Respondent No.2 - the Tahsildar, Malkajgiri Mandal, Medchal District is the complainant. The complainant's allegations are to the effect that the extents covered by Survey Nos.418, 419, 420, 421 and 403/1 situate at Moula-Ali, Malkajgiri are recorded as Government/Wakf/Ceiling Land; the petitioner herein has filed Writ Petition No.15957 of 2016 on the file of this Court requesting to set

aside the Memo No.B/281/2010, dated 23.04.2016, issued by the office of Tahsildar; the petitioner requested in the said writ petition not to dispossess from the subject land, but this Court, in its order in W.P.M.P. No.40892 of 2015 in W.P. No.1563 of 2010, dated 14.10.2015 has directed the Tahsildar to take steps for protecting the land in Survey No.418 (Acs.2.22 guntas), 419 (Acs.2.28 guntas), 420/1 (Acs.14.14 guntas, 420/2 (Acs.0.12 guntas) and 421 (Acs.10.16 guntas), admeasuring Acs.30.12 guntas situated at Malkajgiri from encroachments; accordingly, the Tahsildar erected boards in respect of the said extents; there are no specific Court directions in favour of the petitioner nor any others; the petitioner again filed Writ Petition No.8564 of 2016 for removal of erected boards; the said writ petition was disposed of on 16.03.2016, with a direction to Tahsildar to dispose of the petitioner's representation within a period of six (6) weeks; the said direction was complied with by disposing of the representation through the Memo No.B/281/2010, dated 23.04.2016 stating that the said lands pertain to Government, but still, the petitioner did not stop his acts of interference, and he along with his co-partners, Sri Madhusudhan Reddy and Sri Riyazuddin took up illegal activity by way of dumping debris and levelling the land. He submits that even, in the writ petition filed by the petitioner in W.P. No.15957 of 2016, this Court by order, dated 05.05.2016, ordered notice before admission and, therefore, requested the Station House Officer to take action as the petitioner was not stopping the

developmental works and threatening the officials, who are keeping keen watch over the subject lands.

6. Now, the learned counsel for the petitioner would submit that in fact, the petitioner derived title under a registered sale deed executed on 25.07.2015 by one Syed. Shujjat Ali Hussaini, Syed Basharat Ali and Mrs. Fakhrunnissa Begum pursuant to the decree passed by the learned I Additional Senior Civil Judge, Ranga Reddy District in O.S. No.551 of 1993, directing the Vendors to execute a sale deed in a suit for specific performance and pursuant to the execution petition filed by the petitioner and, therefore, it is his submission that the Government has no right over the property and only to defeat the right of the petitioner over the subject land, falsely implicated him the petitioner.

i) It is also his submission that in Appeal Suit No.210 of 2008, the learned III Additional District Judge (Fast Track Court), Ranga Reddy District, allowed the appeal setting aside the judgment and decree of the Civil Court by granting permanent injunction to the petitioner restraining the defendants therein who are respondent No.2 herein and the District Collector, Ranga Reddy District, from interfering with the peaceful possession and enjoyment of the petitioner over the schedule land and, therefore, it is nothing but abuse of process of law and to quash the FIR.

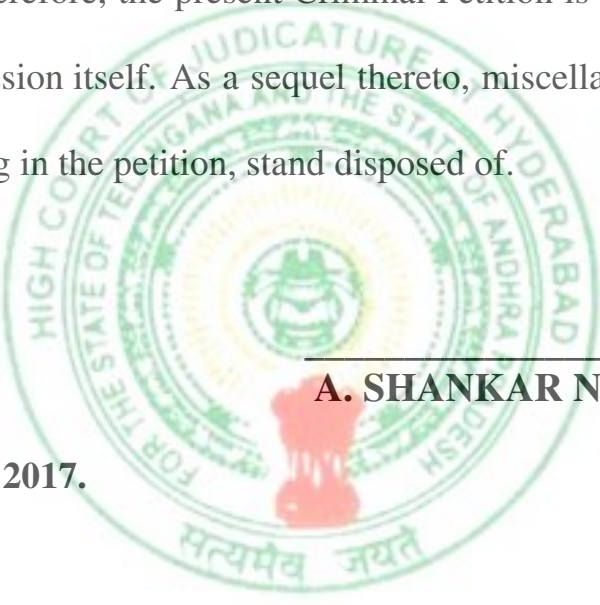
7. The learned Additional Public Prosecutor would strongly resist the request stating that under the direction of this Court in writ petition filed by the petitioner himself to protect the lands Sign-boards were erected, but the petitioner and his co-partners are not stopping the activity and laying debris to level the land, which was objected, on which, the petitioner even threatened the officials of respondent No.2 and, therefore, to reject the request.

i) Incidentally, the learned Additional Public Prosecutor also submits that the petitioner is involved in Crime No.209 of 2015 for the offences punishable under Sections 447 and 427 read with 34 IPC and Sections 3, 4 and 5 of Andhra Pradesh Land Grabbing Act of Malkajgiri Police Station; Crime No.319 of 2015 for the offences punishable under Sections 447, 427 and 506 read with 34 IPC; and Crime No.343 of 2015 for the offences punishable under Sections 448, 427 and 506 IPC.

8. The petitioner, no doubt, filed the copy of judgment, dated 27.10.2011 in A.S. No.210 of 2008, but, when there is a direction of this Court, as could be seen from the complaint averments made by respondent No.2, respondent No.2 is obligated with the duty to protect the land and, in case the petitioner is really aggrieved, certainly, he ought to have questioned the order passed by this Court through which this Court directed respondent No.1 to protect the subject land.

9. This apart, *ex facie*, the complaint of respondent No.2 shows that there are allegations *prima facie* as to the complicity of the petitioner in committing the offences of trespass as well as threatening of the petitioner on the officials of respondent No.2 alleged against him. Therefore, it cannot be said that initiation of criminal action through the FIR under challenge can be said to be abuse of process of law, as sought to be viewed by the petitioner.

10. Therefore, the present Criminal Petition is dismissed at the stage of admission itself. As a sequel thereto, miscellaneous petitions, if any, pending in the petition, stand disposed of.



A. SHANKAR NARAYANA, J

February 13, 2017.

Mgr