

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.71 OF 2017

ORDER:

This petition is filed to quash the proceedings in Cr.No.181 of 2016 of Thorrur Police Station Warangal District, registered for the offences punishable under Sections 420, 418, 192, 207, 464, 193, 196, 209, 447, 427 and 506 read with 34 of I.P.C.

Second respondent herein is the defacto complainant. He filed a private complaint before the Judicial Magistrate of First Class, Thorrur and the matter was referred to police under Section 156 (3) Cr.P.C. and on receipt of the same, police registered the same as a case in Cr.No.181 of 2016 for the above referred offences.

The allegation made in the complaint itself disclose that there is a civil litigation between the parties and O.S.No.103 of 2015 is pending.

The main contention of the petitioners before this court is that the very filing of the private complaint before the Magistrate is only to wreck vengeance by abuse of process of court due to filing a suit O.S.No.103 of 2015 and obtained interim orders in IA.No.255 of 2015 in O.S.No.103 of 2015 from the Judicial First Class Magistrate at Thorrur and that dispute is with regard to the immovable property.

During hearing, learned counsel for the petitioners would contend that the very filing of compliant would amount to conversion of civil into criminal cases and placed reliance on

judgment of Apex Court reported in *STATE OF HARYANA Vs. BHAJAN LAL* (¹), he sought to quash the proceedings in the above crime.

No doubt, inherent powers of this Court is limited and such power is to be exercised sparingly in exceptional circumstances, unless the court came to a conclusion that the allegations made in the charge sheet on its face value would not constitute an offences punishable under Sections referred above.

. In *STATE OF HARYANA Vs. BHAJAN LAL* (1st cited), wherein the apex court held at guideline No.1 which reads as follows:

“Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.”

But, here, the allegations made in the compliant are specific and more over, in the judgment reported in *STATE OF ORISSA AND ANR VS SAROJ KUMAR SAHOO* (²), the Apex Court categorically held that inherent powers under Section 482 Cr.P.C. should be exercised by High Court sparingly. The High Court sparingly being the highest Court of the State cannot exercise such powers when the facts are incomplete and hazy.

In the present case, investigation is not yet completed and no material is brought on record except producing the private

¹ 1992 Supplement (1) SCC 335

² 2005 (13) SCC 540.

compliant and the F.I.R copy, the interim injunction order is obtained by the petitioner in O.S.No.103 of 2015.

These documents, at best, show that there are rival claims against one another and at this stage, in view of the *STATE OF ORISSA AND ANR VS SAROJ KUMAR SAHOO* (2nd cited), this Court cannot exercise when the facts are incomplete. Therefore, I am not inclined to quash the proceedings at this stage.

The learned counsel for the petitioners placed reliance on guide line No.7 of *STATE OF HARYANA Vs. BHAJAN LAL* (1st cited) and *SATISH MEHERA v. STATE OF N.C.T. OF DELHI* (3).

There is no quarrel about the law declared by the Apex Court. In most of the cases two remedies are available both in Civil and Criminal Law. If for any reason, dispute before the Court is predominantly criminal in nature, this Court cannot quash the proceedings. It is difficult for this Court to conclude that the civil proceedings are converted into criminal to wreck vengeance against the petitioners, at this stage. Consequently, it is not a fit case to quash the proceedings in question at this stage and as such, this Criminal Petition is liable to be dismissed.

In the result, this Criminal Petition is dismissed.

As a sequel to the disposal of this petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE M.SATYANARAYANA MURTHY

Dated 4-1-2017.

Dvs.

³ AIR 2013 SC 506

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Dvs