

HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE NO.789 OF 2017

ORDER:

The petitioner is the owner of the premises bearing No.1-2-234/13/44 of Aravindanagar, Domalguda, Hyderabad. Crime No.48 of 2015 by P.S., Machareddy, was registered against one Smt.Bandru Vimala among others. It appears, the said Vimala, maintained W.P.No.42534 of 2016, questioning the action of the respective police of Nizamabad District, about the seizure of the office premises of their organization. It appears, according to her claim, the office is running in the premises owned by the present revision petitioner. It appears said crime was registered against said Vimala and others under Arms and Explosive Substance Act. It appears neither arms nor explosives or any explosive substance found in the premises in question but for some literature leading to naxal activities belong to those accused. The claim of the petitioner before the lower court, covered by the impugned dismissal docket order dated 01.03.2017, in seeking to release the lock of the premises seized by the police that he is the owner, he earlier let out the premises and the tenants were residing and paying rents and vacated and later to one S.Karremma, D/o.Lakshmaiah, he let out in 2009 on monthly rent for residential purpose and he came to know from the neighbours that Police claiming from

P.S.Machareddy visited the premises on 03.12.2016 and put lock and key to the premises under the guise of some illegal activities are going on in the premises and he has no knowledge about the premises given by the said tenant by inducting any third party for any illegal activity and as he being the owner of the premises is entitled to seek release of the lock put by police for his occupation. The learned magistrate dismissed the same covered by the impugned order saying there are illegal activities going on as per the crime averments of the police investigation pending, since occupied by some members of CPIML belong to Jana Shakthi Central Committee and one Smt.B.Vimala and Sri A.Chandra Mohan, claimed that they are the occupiers of the premises and it was seized by police and they maintained W.P.No.42534 of 2016 and in view of the writ petition is pending in relation to the subject matter of the premises questioning the seizure, the petition is liable to be dismissed as permission sought to release the lock of the premises cannot be granted.

2. In fact a perusal of the interim order in the pending writ petition (supra) of another learned single judge bench of this Court dated 20.01.2017, shows pendency of the writ petition will not disentitle any of the parties to file appropriate applications before the Criminal Court to decide as per the procedure to entitlement of reliefs as the case may be.

3. As per the submission of the learned public prosecutor one Sri R.Ravi Kumar, S/o, the petitioner R.S.Sastry was one of the witnesses examined during investigation of the crime pending. The statement reads that their family were residing upto 2002 from 1998 in the premises and later they shifted in 2002 to Banjara Hills another house and let out from 2003 to 2008 to different tenants and later for lying vacant they have given the premises on rent to Smt.S.Karremma, D/o.Lakshmaiah of S.R.T.176 of Jawahar Nagar, Chikkadapally, on 25.05.2009, for eleven months for her residential purpose and after completion of the eleven months even she continues even there was no renewal of lease. For the past three months, it appears, she was allowing some others into the premises and questioning the same, they are demanding her to vacate. They came to understand now that said Karremma is not interested in vacating and they contemplate legal action for her eviction and in the meantime the premises was seized by the police before taking action to cause vacate.

4. Even from the material, there is nothing to attribute against the petitioner Sri R.S.Sastry, that he consciously allowed anybody for any criminal activities in the premises, but for the tenant holding over by name S.Karremma if at all allowing without his knowledge and consent and for her

illegal activities, he cannot suffer for nothing to show he is perpetrator of any crime.

5. Having regard to the above, though the premises seizure by the police is to prevent illegal activities as part of their duty to maintain law and order since the petitioner is the rightful owner and is entitled to the premises, the police shall allow to occupy subject to undertaking not to allow any others to do any illegal activities in the premises. Thus the impugned dismissal order of the lower court is unsustainable.

6. Having regard to the above and in the result, the revision is allowed by setting aside the dismissal docket order of the lower court dated 01.03.2017 in CrI.M.P.No.1348 of 2016 and by allowing the petition permitting the petitioner for custody of the premises subject to execution of self-bond by petitioner for Rs.2,00,000/- (rupees two lakhs only) by undertaking not to allow anybody for any illegal activities therein other than to permit or let out for residential purposes by obtaining full particulars in writing of the occupants with copy of aadhar card and other identity and furnish one such copy to the SHO, Machareddy.

7. Miscellaneous petitions pending, if any, in this case shall stand closed.

DR.B.SIVA SANKARA RAO, J

17.04.2017
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