

THE HONOURABLE Dr.JUSTICE B. SIVA SANKARA RAO

Criminal Petition No.525 of 2017

ORDER :

The petitioners are the A.1 to A.3 of C.C.No.164 of 2016 on the file of the VI Addl.Junior Civil Judge, Guntur, where the learned Magistrate has taken cognizance for the offences punishable u/ Sec.447 and 427 r/w 34 IPC, which is outcome of Cr.No.229 of 2014 of Chebrolu Police Station dt.13.09.2014 on the report of the 2nd respondent-defacto-complainant dt.Nil-.

The substance of the accusation in the said report vis-a-vis the police final report after completing investigation by citing 11 witnesses including L.Ws.10 and 11-the investigating officers and L.W.1 defacto-complainant and L.Ws.2 to 9 shown as witnesses who speak about the occurrence is that A.1 Challa Nagi Reddy, and the defacto-complainant are own brothers and sons of late Seetharam Reddy. A.2 is sister-in-law of A.1, being wife of Punna Reddy and A.3 is the elder sister of A.1 and defacto-complainant. Among the witnesses the LW.2(Challa Satyavathy) is no other than the wife of L.W.1-defacto complainant and L.W.3(Inturi Somireddy) is brother of L.W.2 and son-in-law of L.Ws.1 and 2, L.Ws.4 and 5 Nanepaga Prasad and Nagisetty Srinivasa Rao) are the eye witnesses to the occurrence, L.Ws.6 to 9(B.Manikya Rao, Annavarapu Krishnam Naidu, Patikonda Vijaya Kumar and Neelam Kishore) are so called tractor drivers among the so called eye witnesses L.Ws.4 to 9. The final report further speaks that there is criminal trespass with mischief and extortion with common

intention that occurred on 08.09.2014 at 8.30 A.M. at the fields of Pathareddypalem village, that L.W.1 having land with cotton, black gram and green gram crop, the A.1 to A.3 trespassed into the field of the L.W.1 with three tractors and ploughed and damaged the crop in question, when the L.W.1 tried to stop, A.2 beat the L.W.2 with hands and crime is registered initially in Cr.No.229 of 2014 for the offences punishable u/ sec.447,427,384 r/ w 34 IPC and during course of investigation, deleted the A.2 from the array of the four accused as well as deleted Section 384 IPC, and the learned Magistrate taken cognizance for the same.

In fact, the complaint speaks that the A.1 is the elder brother working in Agriculture Department and another brother Venkata Krishna Reddy is working in bank by residing in and around of Guntur district and the defacto-complainant, they are three brothers among 7 issues including 4 daughters and the ancestral property is being cultivated by him and the income is being distributed by his elder brother-A.1 to him and his younger brother Venkata Krishna Reddy. He also kept on purchasing the land in and around out of the income including in the name of A.1 and his children. It is therefrom the property standing in the names were uneven and on 05.05.1999 his elder brother-A.1 executed a document and gave Ac.0.76cents of land and 29½ cents of house property to the defacto complainant and Ac.2.22 cents to his younger brother, in the presence of witnesses viz; Balram Reddy and G.Malla Reddy, however their father in his lifetime in 1992 executed a will in favour of the defacto-complainant, of Ac.6-

52cents bequeathing same attested by his younger brother Venkat Krishna Reddy and one of their sisters Metha Venkatamma. Later in 2012, in this regard there were differences and there was a civil suit contested by them but there was no any injunction granted by the Court till date. While so, on 08.09.2014 at 8.30A.M., while he was in his land in which there was paddy crop, A.1 came with three tractors and ploughed the paddy and when himself and his wife Satyavathy resisted, the A.1 Vangala Punna Reddy, Alivelu, Mangamma, Metta Sathyavathi, beat his wife indiscriminately and tried to kill her by a rope throttled around her neck and when he intervened, they pulled his hands and threw him on the tractor and tried to run over tractor and snatched 7 sovereigns of gold chain of his wife and gave to her husband Punna Reddy who fled away on his motor cycle with it though complainant tried to chase to cease and while the land was ploughing, the persons by names N.Prasad, Nagisetty Srinivas Rao and some others questioned them and tried to prevent them from spoiling the standing crop however they were also abused by the accused and spoiled the crop and left the place.

The investigation statements of the witnesses supra also to some extent substantiating the said accusation. The contentions in the quash petition of the accused are that the complaint allegations are as vague as anything no way makes out any offence and the complainant not even mentioned distribution of his ownership for any particular land but made bald allegations and without even mentioning any survey numbers of the land the

allegedly trespass and even the allegation exhibited on face value no way makes out any case and complaint is only to blackmail and to make accused to yield to the illegal demands of the complainant to settle the pending civil suits O.S.No.626 and 627 of 2013 and 671 of 2013 on the file of the Junior Civil Judge, Guntur for permanent injunction and other reliefs apart from the suit filed by the complainant in O.S.No.523 of 2014 for partition and once that is the case being the co-owners, the question of trespass does not arise and in CrI.P.No.244 of 2015 and 1433 of 2015 this Court quashed the proceedings u/sec.145 of Cr.P.C. by the Executive Magistrate on the ground of pendency of civil suits and thereby sought for quashing the same. So far as the plaint in O.S.No.573 of 2014 filed by the complainant and his younger brother Venkata Krishna Reddy against the A.1, A.2 and their mother Lakshmi sakuntamma and Raghunatha Reddy for the reliefs of partition of the plaint schedule properties into three equal shares and to allow one such share to the plaintiffs 1 and 2 each for the 1st defendant entitles to the remaining 1/3rd share for separate possession and to grant permanent injunction restraining the defendants from interfering with the 1st petitioner/plaintiff's possession and enjoyment in item No.3 of "C" Schedule House Property bearing D.No.9-78 of Patha Reddy Palem, Chebrolu Panchayat. The plaint schedule mentioned therein is as follows:-

A-schedule property got by their late father Challa Seetarami Reddy, under Reg. partition dated 14.12.1931 with the following items:-

Item No:1

Ac.1-97 cents of Dry land out of Ac.3-92cents in D.No.333 of Patha Reddy palem and bounded by;

East: Land in the name of Challa Srinivasa Reddy
 South: Land of Challa Seetaramireddy
 West: Joint property of plaintiff & Defendants
 North: Joint Property of plaintiffs & Defendants
 Value of the property Rs.7,88,000/-

Item No:2

Ac.0-52 cents in D.No.435/ 3 of Patha Reddy Palem and bounded by;

East: Joint property of Plaintiffs & Defendants
 South: Land of Bharatamma
 West: Sarkar Donka
 North: Land of Kiran
 Value of the property Rs.2,08,000/-

Item No:3

Ac.0-06 cents of House site in D.No.464/ 4 of Patha Reddy Palem and bounded by;

East: Joint Galli
 South: Land of Venigandla Subbaiah
 West: Joint Land of Plaintiffs
 North: Land of Kiran
 Value of the property Rs.2,90,400/-

II “ B” SCHEDULE

acquired by Challa Seetarami Reddy in his name with Joint Family Fund

Item No:1

Ac.3-06 cents out of Ac.27-00 cents in D.No.331 of Patha Reddy Plaem and bounded by

East: Land of Gade Venkata Reddy and others
 South: Sarkar Donka
 West: Land of Rayapati Venkateshwarlu
 North: Land of Bhavanam Srinivasa Reddy
 Value of the property Rs.12,24,000/-

Item No:2

Ac.1-01 cents out of Ac.2-02 cents in D.No.335/ 5 of Patha Reddy Plaem and bounded by

East: Joint property in the namer of Challa Raghunada Reddy
 South: Joint Property of Plaintiffs & Defendant
 West: Joint Property of Plaintiffs & Defendants in the name of Sakuntalamma (D2)
 North: Land of Mallavarapu Antaiah
 Value of the property Rs.4,04,000/-

III C- SCHEDULE

Purchased in the name of "Challa Sakuntamma" with Joint Family Funds

Item No:1

Ac.0-65 cents in D.No.335/ 5 of Patha Reddy Palem and bounded by;

East: "B" Schedule property
 South: Joint Property of Plaintiffs & Defendants
 West: Joint Property of plaintiffs & Defendant in the name of Challa Venkata Krishna Reddy-P2
 North: Land of Mallavarapu Antaiah
 Value of the property Rs.2,60,000/-

Item No:2

Ac.1-00 cents in D.No.332/ B6 of Patha Reddy Palem and bounded by;

East: "A" Schedule property etc.,
 South &
 West: Joint Property of Plaintiffs & Defendants in the name of 1st Defendant
 North: Joint Property of Plaintiffs & Defendants in the name of Challa Venkata Krishna Reddy-P2
 Value of the property Rs.4,00,000/-

Item No:3

Ac.0-23 cents out of Ac,0-26 cents of House Property purchased in the name of 2nd Defendant Lakshmi Sakuntamma with Joint Family Funds under a Regd.Sale Deed No.1250/ 1959, dated 09.06.1959 Ac.0-16 cents in D.No.464/ 2013, Ac.0-04 cents in D.No.464/ 2012 and Ac.0-06 cents in D.No.464/ 2010 of Patha Reddy Plaem bearing Door No.9-78 (Old Door No.9-59) Assessment No.435, 5th ward Seetaramanajaneya Swamy Street, Patha Reddyplaem with a Tiled House therein and bounded by

East: Bazar
 South: Ste of G.Siva Rami Reddy
 Again East: G.Siva Rami Reddy
 Again South: Bazar
 West: Bazar
 North: Guntur Anji Reddy
 Value of the property Rs.15,02,000/-

Item No:4

336 Sq.Yards of Ste in D.No.78 & 119 of Nallapadu which is not Town Survey near Mallareddynagar, A.T.Agraharam, Guntur and bounded by;

East: 40 ft road 55ft
 South: V.Alevelumangamma 55ft
 West: Patan Rahim Khan 55ft
 North: Others Land 55ft
 Value of the property Rs.13,44,000/-

IV D- SCHEDULE

Purchased in the name of Challa Nagi Reddy-D.1

Item No.1:

Ac.2-10 cents in D.No.332/ 8 of Patha Reddy Palem and bounded by

East: Land of Challa Seetarami Reddy
 South: Joint Property of Plaintiffs & Defendants in the name of Challa Amaranada Reddy
 West: V.Punna Reddy
 North: Joint Property of Plaintiffs & Defendants in the name of Challa Nagi Reddy-D.1

Value of the property Rs.8,40,000/-

Item No:2

Ac.1-00 cents in D.No.334/ 1, 336/ 1,2,3&4 of Pathareddypalem and bounded by

East: Joint Property of Plaintiffs & Defendants in the name of 1st Ch.Paghunatha Reddy
 South: Joint Property of Plaintiffs & Defendants in the name of 1st Plaintiff Venkata Ramana Reddy,
 West: Joint Property of Plaintiffs 1 and 2 and Defendant No.1
 North: Joint Property of Plaintiffs & Defendants in the name of Challa Nagi Reddy-D.1
 Value of the property Rs.4,00,000/-

Item No:3

Ac.0-76 cents in D.No.350/ 6/ A of Patha Reddy Palem and bounded by;

East: Canal Bund
 South: Land sold to others by Mallavarapu Thomas,
 West: Sarkar Donka
 North: Land of Tiruvedula Madhava Rao,
 Value of the property: Rs.3,04,000/-,

Item No:4

Ac.1-00 cents in D.No.351/ 2 of Patha Reddy Palem and bounded by;

East: Land of P.Papaiah,
 South: Joint property of Plaintiffs & Defendants in the name of 1st Plaintiff Venkata Ramana Reddy,
 West: Land of G.Sambi Reddy,
 North: Land of M.Dasaiah,
 Value of the property Rs.4,00,000/-

Item No:5

Ac.1-22 cents in D.No.332/ 3 &6 of Patha Reddy Palem and bounded by;

East: C-schedule
 South: B-schedule
 West: I-Schedule,
 North: V.Punna Reddy,
 Value of the property Rs.4,88,000/-

V. E-SCHEDULE

Purchased in the name of Challa Raghunada Reddy-D.3 Ac.2-00cents in D.No.335/ 5 & 335/ 7 of Patha Reddy Palem and bounded by;

East: Sarkar Donka,
 South: Land of K.Rami Reddy
 West: Joint Property of Plaintiffs & Defendants in the name of Challa Nagi Reddy-D.1
 North: Joint Property of Plaintiffs & Defendants in the name of Challa Venkata Ramana Reddy-P.1
 Value of the property Rs.8,00,000/-

VI. F-SCHEDULE

Purchased in the name of Challa Narmada D/ o Challa Nagi Reddy Ac.1-50cents in D.No.335/ 6,7 of Patha Reddy Palem and bounded by;

East: Joint Property of Plaintiffs & Defendants in the name of Challa Raghunatha Reddy-D.3
 South: Joint Property of Plaintiffs & Defendants in the name of Challa Nagireddy-D.1
 West: Joint Property of Plaintiffs 1 and 2 and D.1
 North: A & E Schedule.

This property now stands in the name of the 1st Defendant Challa Nagi Reddy after the death of Narmada
 Value of the property Rs.6,00,000/-

VII. G-SCHEDULE

Purchased in the name of Challa Venkata Ramana Reddy-P.1

Item No.1:

Ac.0-43 cents in D.No.335/ 3 of Patha Reddy Palem and bounded by

East: Land of V.Rama Reddy,
 South: Joint Property of Plaintiffs & Defendants in the name of Challa Raghunatha Reddy-D.3
 West: Land of M.Ramaiah etc.,
 North: M.Balasowri etc.,
 Value of the property Rs.1,72,000/-

Item No:2

Ac.1-00 cents in D.No.334/ 1,336/ 2,3 and 4 of Patha Reddy Palem and bounded by;

East: Joint Property of Plaintiffs & Defendants in the name of Challa Venkata Krishna Reddy-P.2
 South: Joint Property of Plaintiffs & Defendants in the name of Challa Srinivasa Reddy, P.4
 West: A-Schedule,
 North: D-schedule in the name of D.1
 Value of the property Rs.4,00,000/-

Item No:3

Ac. 1-99½ cents in D.No.351/ 2 of Patha Reddy Palem and bounded by;
 East: Land of P.Papaiah,
 South
 West: land of Gurralla Sambhi Reddy,
 North: Joint Property of Plaintiffs & Defendants in the name of
 Challa Nagi Reddy-D.1
 Value of the property Rs.3,95,000/-

Item No.4

Ac.0-45 cents in D.No.335 of Patha Reddy Palem and bounded by;
 East: Donka
 South: Joint Property of Plaintiffs & Defendants in the name of
 Challa Raghunada Reddy-D3
 West: Joint Property of Plaintiffs & Defendants in the name of
 Challa Ramana Reddy -P1
 North: Land of S.Thomas
 Value of the property Rs.1,80,000/-

VIII "H" SCHEDULE

Purchased in the name of Challa Amaranada Reddy, S/o Venkata Ramana Reddy.

Ac.2-00 cents in D.No.332/ 8 of Patha Reddy Palem and bounded by

East: Land of K.Satyanarayana
 South: Donka
 West: Land of Gade Madusudana Reddy
 North: Joint Property of Plaintiffs & Defendants in the name of
 Challa Nagi Reddy-D1
 Value of the property Rs.8,00,000/-

IX "I" SCHEDULE

Purchased in the name of Challa Venkata Krishna Reddy –2nd plaintiff

Item No.1:

Ac.0-92 cents in D.No.335/ 8 of Patha Reddy Palem and bounded by;

East: Sarkar Donka
 South: Land in the name of 2nd plaintiff
 West: Land in the name of 1st Plaintiff Ramana Reddy
 North: Land of K.Pani
 Value of the property Rs.3,68,000/-

Item No.2:

Ac.1-37 cents in D.No.332/ 1 of Patha Reddy Palem and bounded by;

East: Joint Property of Plaintiffs & Defendants in the name of
 Challa Venkata Krishna Reddy -P2
 South: Joint Property of Plaintiffs & Defendants in the name of
 Challa Venkata Krishna Reddy -P2
 West: Land of M.Krishna Reddy etc.,
 North: Land of N.Bla Thomas
 Value of the property Rs.5,48,000/-

X "J" SCHEDULE

Purchased in the name of Challa Srinivasa Reddy, S/o Venkata Krishna Reddy

Item No.1:

Ac.2-00 cents in D.No.336/ 2,3,4 of Patha Reddy Palem and bounded by;

East: Sarkar Donka
 South: Land of K.Satyanarayana
 West: "A" Schedule
 North: Joint Family Property
 Value of the property Rs.8,00,000/-

Item No.2

Ac.1-40 cents in D.No.336/ 2,3,4 of Patha Reddy Palem and bounded by;

East: Joint Property of Plaintiffs & Defendants in the name of Challa Venkata Krishna Reddy -P2
 South: Land of V.Punna Reddy
 West: Land of M.Musalaiah
 North: Sarkar Donka
 Value of the property Rs.5,60,000/-

XI "K" SCHEDULE

Purchased in the name of Challa Narayanamma bequeathed in favour of Three Brothers P1,P2 & D1 under a Regd. Will dated 02.11.1974

Item No.1:

Ac.1-96 cents in of Ac.3-93 cents in D.No.333 of Patha Reddy Palem bounded by;

East: Joint Property of Plaintiffs & Defendants in the name of 1st plaintiff and 2nd Defendant
 South: "A" Scheudle
 West: Joint Property of Plaintiffs & Defendants in the name of 2nd Defendant
 North: "B" & "C" Schedule
 Value of the property Rs.7,84,000/-

Item No.2

Ac.0-52 cents in D.No.435/ 3 of Patha Reddy Palem and bounded by

East: Land of Challa Kasi Reddy
 South: Land of Bharathamma
 West: "A" Schedule
 North: Land of Kiran
 Value of the property Rs.2,08,000/-

Item No.3

Ac.0-06 cents in House Site in D.No.464/ 4 of Patha Reddy Palem and bounded by;

East: Joint Galli
 South: Land of Vinegandla Subbaiah
 West: Land of Venkataramana Reddy

North: Dodda Rama Chandra Reddy and others
Value of the property Rs.2,90,000/-

XII "L" SCHEDULE

Purchased in the names of 1st Defendant and 1st plaintiff and was disposed off.

Item No.1

Ac.3-52 cents in D.No.315/ 3 was purchased in the name of 1st Defendant Challa Nagi Reddy, Dodda Rama Chandra Reddy under a Regd.Sale Deed No.942/ 1973 dated 11.05.1973 and was alienated by Nagi Reddy in favour of Guntur Venkata Subba Reddy under a Regd Sale Deed No.621/ 1993 dated 28.04.1993

Value of the property Rs.14,08,000/-

Item No.2

Ac.1-71 cents in D.No.315/ 2 of Patha Reddy Palem purchased in the name of Challa Venkata Ramana Reddy with Joint Family Funds under a Reg.Sale Deed No.364/ 1979 dated 17.04.1979 from Udumula Nagi Reddy and was alienated by him in favour of Gunturu Venkata Subba Reddy under a Regd.Sale Deed No.620/ 1993, dated 28.04.1993

Value of the property Rs.6,84,000

Note: These Two items are presently not the Properties Joint owned and hence they have got to be apportioned at the time of Partition to the Shares of 1st Defendant and 1st Plaintiff respectively working out equities.

In fact, in the FIR the survey number of the land not even mentioned as to which land was ploughed by the A.1 and other accused by using tractors and meant for the so called trespass and mischief even from the police final report, there is no mention as to which land out of the lands covered by the partition suit apart from it the alleged occurrence was dated 08.09.2014 at about 8.30am and the alleged police report was on 13.09.2014 which is about 4 days later. Undisputedly there are 4 civil matters pending and three are of the year 2013 and 4th one is the partition suit filed by the complainant and his younger brother against their elder brother A.1 and others. Even the statements of the witnesses

though speak about trying to plough and to attack, the land particulars not even mentioned.

Having regard to the above, this matter is predominantly civil in nature but for to say if at all there is any alleged trespass that will not attract for no criminal intention can be attributed basically but for if at all under the civil contest of bona fide entered including from any ploughing of land and causing of mischief for civil damages. With these observations for this Court there is nothing to continue the criminal prosecution from prodominantly civil in nature.

Accordingly and in the result, the Criminal Petition is allowed by quashing the proceedings in C.C.No.164 of 2016 on the file of the VI Addl.Junior Civil Judge, Guntur against the petitioners/ A.1 to A.3 and they are acquitted. Their bail bonds shall stand cancelled.

Consequently, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

Date:05.10.2017
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Dr. B.SIVA SANKARA RAO J,