

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.919 of 2017

ORDER :

The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973, requesting this Court to exercise the extraordinary power to quash the proceedings in C.C.No.913 of 2015 on the file of the VIII-Additional Chief Metropolitan Magistrate, Hyderabad.

2. Heard Sri T.V.Ramana Rao, learned counsel for the petitioner, and the learned Additional Public Prosecutor for the State of Telangana.

3. The petitioner is the sole accused and he alleged to have committed the offences punishable under Sections 447 and 427 IPC and Section 52(a) of Waqf Amendment Act, 2013.

4. It is not in dispute that on the complaint lodged by the 2nd respondent herein, F.I.R. was issued and the allegations are that the petitioner illegally trespassed and encroached the property to an extent of 500 sq. yards, out of 6120 sq. yards, which is known as 'Khaja ka Chillah', situated at Moghalpura, Hyderabad, and even notified under Waqf property by way of Gazette notification dated 09.02.1989 and the property was registered under Gazette No.6-A.

5. Learned counsel for the petitioner would plead that in fact there is a civil dispute between the parties with regard to right of ownership over the said extent and he pointed out the two suits, which have been filed and pending between the parties, and that one Nawab Mir Barkat

Ali Khan filed O.S.No.166 of 2001 against the wife of the petitioner showing her as defendant No.5, viz., Ahemdi Begum, and her vendor as defendant No.2. The Waqf Board also filed a suit in O.S.No.112 of 2014 before the Waqf Tribunal, City Civil Court, Hyderabad, against the petitioner claiming the property bearing No.23-2-10. Whereas, the petitioner is claiming the property bearing No.23-2-11. These aspects can only be examined during trial to reach a correct conclusion by cross-examination of the witnesses confronting the material, which the wife of the petitioner has got, in establishing her right. Even otherwise, it is for the prosecution to prove beyond reasonable doubt the offences alleged against the petitioner. Certainly, it cannot be said that a case is made out to hold that it is abuse of process of law.

6. Accordingly, the criminal petition is dismissed at admission stage.

7. Miscellaneous petitions pending, if any, shall stand dismissed.

A. SHANKAR NARAYANA, J

6th February 2017.

mar