

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.2580 OF 2017

ORDER:

The present petition is filed under Section 482 of the Criminal Procedure Code, 1973 (for short, 'the Code') requesting to quash the First Information Report in Crime No.311 of 2016 of Bhimili P.S., Visakhapatnam District.

2. The petitioner is the sole accused in the aforesaid crime. He alleged to have committed the offences punishable under Sections 447, 427 and 506 read with Section 34 of IPC, and Sections 3 & 4 of the A.P. Land Grabbing (Prohibition) Act, 1982 (for short, 'Land Grabbing Act').

3. Heard Sri S.V.S.S. Siva Ram, the learned counsel for the petitioner, and the learned Additional Public Prosecutor for the State of Andhra Pradesh.

4. The learned counsel for the petitioner would submit that the petitioner is falsely implicated; there has been inordinate delay in lodging the complaint by the *de facto* complainant, who is the 2nd respondent herein, which cannot be ignored and creates any amount of suspicion as to due deliberations and consultations having been taken place to implicate the petitioner; that the penal provisions of Land Grabbing Act would not attract as it is a special statute and unless a person declared as land grabber by a competent Court under the

special statute, no offences under the provisions of Land Grabbing Act can be levelled and placed reliance in **V. Madhusudhan Rao v. State of A.P. and another**¹.

5. The learned counsel for the petitioner would submit that lodging of complaint by the 2nd respondent herein in Crime No.311 of 2016, and also lodging of complaint by one Ayinampudi Srinivasa Raju against the petitioner herein in Crime No.313 of 2016, which is another crime alleging the aforesaid offences are sufficient to show that both the *de facto* complainants making deliberate attempts to intimidate the petitioner, who is fighting the illegal activities of Sukhibhava Real Estate Private Limited, and to camouflage and bog down the petitioner, filed the complaints.

6. Learned counsel for the petitioner, thus, refers to in the complaint survey numbers which constitute the subject land in Sy. No.68/16 of Chittivalasa Village in the present crime i.e., Cr. No.311 of 2016, and Sy.68/17 of the same village in another Crime No.313 of 2016.

7. The learned Additional Public Prosecutor for the State of Andhra Pradesh would submit that the Land Grabbing Court is still continuing to function for the State of Andhra Pradesh and the cases are being filed where allegations relate to land grabbing and where penal provisions are invoked. One of his submissions is that sub-

¹ 2015 Law Suit (Hyd) 183

division numbers are not correctly mentioned in the present petition and the allegations made in the complaint are sufficient enough to make out *prima facie* case for the offences alleged against the petitioner.

8. A perusal of the complaint averments would clearly indicate certain relevant facts that are necessary to refer to in arriving at whether the complaint would reflect *prima facie* allegations as to commission of offences alleged against the petitioner. The petitioner's father Appala Reddy worked as Village Assistant earlier and had thorough knowledge of the lands, cultivation and occupation of the lands by ryots and the petitioner by misusing old documents and old revenue forms which are available with his father started to blackmail the company of the *de facto* complainant demanding to pay money to him and used to threaten them that he would file false complaints by changing the revenue records by using the blank forms available with him and even in the year 2005 when their company purchased the land, a spurious claim was made through his younger brother, Ganesh Reddy, who was an employee of Visakhapatnam Port Trust; the *de facto* complainant's company succeeded in proving that the contentions of the petitioner were false and the petitioner demanded money and stating that unless his demand is met, he would not allow to complete house building project. Thereafter, the present case has been narrated stating that on 24.12.2016 in the morning hours, the petitioner along with 15 to 20 persons came to the land, and the

workers numbering five or six belonging to the *de facto* complainant's company when attempted to stop them, they pushed them aside and trespassed into the subject land armed with deadly weapons like pick-axes, crowbars and demolished the Eastern compound wall which run to a length of 100 feet from North to South, and even the workers sustained injuries and thus, the loss to the tune of Rs.10 lakhs was occasioned, besides threatening them if they reconstruct they would see their end. These have been the allegations levelled in the complaint, basing on which the Station House Officer registered the case for the offences punishable under Sections 447, 427, 506 read with Section 34 of I.P.C. and Sections 3 & 4 of A.P. Land Grabbing (Prohibition) Act, 1982.

9. The decisions rendered by this Court in **V. Madhusudhan Rao** (1 supra) is to the effect that the offences punishable under Sections 3 & 4 of the Land Grabbing Act would not attract as the special Court under the Act has to decide and render the finding that there is land grabbing, but the police under Sections 3 & 4 of the Land Grabbing Act are not empowered to register the case. This has been observed by a learned Single Judge in paragraph-7 of the ruling, which reads thus:

“7. The contention of the learned counsel for the petitioners is that registering of crime under Sections 3 and 4 of the Act, 1982 is illegal and contrary to Sections 11 and 12 of the Act, 1982 and further, land grabbing arises only after finding given by the Special Court or Tribunal basing on the allegation of grabbing which is pleaded and proved before it, and therefore, the 2nd respondent/de facto complainant has no jurisdiction to register the complaint directly under the provisions of special enactment. However, there is no dispute about the said finding that there is a land grabbing, but the police under Sections 3 and

4 of the Act, 1982 are not empowered to register the case against the petitioners. Therefore, the contention of the petitioners to that effect is sustainable and the FIR is liable to be set aside with regard to the offence punishable under Sections 3 and 4 of the Act, 1982.”

10. The scheme of the Act is altogether different and to stamp a person as a land grabber, the competent authority is Land Grabbing Court under the Act when a complaint is made or a complaint is filed under the provisions of the Act. Therefore, the offences alleged against the petitioner under the provisions of Sections 3 & 4 of Land Grabbing Act would not sustain and, accordingly, quashed.

11. Concerning the other offences under the Indian Penal Code i.e., Sections 447, 427 and 506 read with Section 34 of I.P.C., the complaint contains *prima facie* allegations in the direction of showing the complicity of the petitioner in commission of the said offences. The submission of the learned counsel that there has been delay of more than 24 hours and that only after due deliberations and consultations to implicate the petitioner falsely, the complaint was lodged with delay cannot be examined at this stage as it requires proof which can only be gone into when full-fledged trial takes place in case charge-sheet is filed by the investigating officer.

12. Therefore, the present Criminal Petition is partly allowed quashing the offences punishable under Sections 3 & 4 of A.P. Land Grabbing (Prohibition) Act, 1982, while dismissing the petition so far

as the offences punishable under Sections 447, 427 and 506 read with Section 34 of I.P.C. are concerned.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition shall stand closed.

A. SHANKAR NARAYANA, J

Dt. 03.04.2017

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