

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.9973 OF 2017

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (Cr.P.C.) to quash the proceedings in Crime No.42 of 2017 of P.S. Urakonda, Nagarkurnool District, registered for the offences punishable under Sections 447 and 427 read with Section 34 of the Indian Penal Code.

The second respondent lodged a complaint with the police on 08.09.2017 alleging that he purchased property of an extent of Acs.16.27 gts in Survey No.74 of Bommarasipally Village and made boundary with stone poles but the petitioners allegedly trespassed into the property about ten days prior to lodging complaint and damaged the stone pillars used for fencing and requested the police to take action against them.

It is contended by the counsel for the petitioners that the petitioners are the owners of the said property and in occupation and enjoyment of the property as rightful owners and in the absence of any details regarding purchase of property under registered sale deed based on vague allegations and apprehension that the second petitioner is a Teacher and the police may apprehend him in connection with the above crime, counsel for the petitioners requested this Court to quash the proceedings in Crime No.42 of 2017 of P.S. Urakonda, Nagarkurnool District.

No doubt the FIR registered by the police is bereft of details regarding purchase but on that ground itself the proceedings cannot be quashed for the reason that the FIR is only an intimation to police about commission of cognizable offence, it

need not contain minute details. However, investigation is at a foetus stage and complete facts are not before this Court and at this stage, this Court cannot quash the proceedings.

In **State of Orissa v. Saroj Kumar Sahoo**¹, it is held that the inherent powers under Section 482 Cr.P.C. should not be exercised by the High court to stifle a legitimate prosecution. The High Court, being the highest Court of State should normally refrain from giving a *prima facie* decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. The same principle was laid down in **Kurukshetra University v. State of Haryana**².

At this stage it is difficult to quash the proceedings. However, since the arrest of the accused is part of investigation and as both the offences are bailable offences, without touching the merits of the case and acceding to the request of the counsel for the petitioners, this Criminal Petition is disposed of directing the police concerned to follow the procedure under Section 41-A Cr.P.C. and the guidelines issued by the Apex Court in **Arnesh Kumar v. State of Bihar**³. Miscellaneous petitions, if any, pending shall stand closed.

(M.SATYANARAYANA MURTHY, J)

31st October 2017
RRB

¹ (2005)13 SCC 540 : 2006(2) ALT (CrI.) 16

² (1977)4 SCC 451 : AIR 1977 SC 2229

³ (2014)8 SCC 273