

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.2495 of 2018

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioners/A.1 to A.3, to quash the proceedings in C.C.No.347 of 2017 on the file of III Additional Judicial Magistrate of First Class, Tirupati, Chittoor District.

2. Heard the learned counsel for the petitioners/A.1 to A.3, learned Assistant Public Prosecutor representing the 1st respondent-State and perused the record.

3. The learned counsel for the petitioners/A.1 to A.3 would submit that dispute between the parties to the *lis* is civil in nature. The petitioners/A.1 to A.3 are cultivating tenants of the subject land belonging to Hathiramji Mutt. The de-facto complainant has no interest, whatsoever, over the subject land. The allegations of trespass, demolition of compound wall and threatening the de-facto complainant are all invented for the purpose of this case. The petitioners/A.1 to A.3 filed a civil suit against the de-facto complainant before the civil Court and in the said suit, the civil Court granted *status quo* and ultimately prayed to allow the application.

4. The learned Assistant Public Prosecutor opposed the application.

5. As per the material placed on record, the de-facto complainant is son of R.Prabhavathi, who is the owner of the land. L.W.2 is cousin of the de-facto complainant and eye-witness to the commission of offence. L.W.3 is a neighbour and also an eye-witness to the

commission of offence by petitioners/A.1 to A.3. The specific allegation against the petitioners/A.1 to A.3 is that they trespassed into the land belonging to the mother of the de-facto complainant, demolished the compound wall and threatened the de-facto complainant with dire consequences. The disputed land has been in possession of the mother of the de-facto complainant for more than 24 years. The alleged offence said to have committed on 12.07.2017 at 11:50 AM. There are also specific allegations of criminal trespass and demolition of entire compound wall constructed by the de-facto complainant and his mother. Further, there are allegations threatening the workers. As per the prosecution case, there are number of witnesses who witnessed the alleged demolition and threat. There are factual aspects involved in this case with regard to alleged commission of offence, which are required to be decided by a competent criminal Court after due trial. The petitioners/A.1 to A.3 also lodged a report with the police against the de-facto complainant and others basing on which, a criminal case has been registered against them. It is also brought to the notice of this Court that Hathiramji Mutt has also lodged a report. There are also writ petitions filed by the parties to the dispute. It has been contended on behalf of the State that the land belonging to Hathiramji Mutt is different from the land belonging to the de-facto complainant. All these can be answered after due trial. It is not appropriate to concede the request of the petitioners/A.1 to A.3 and quash the proceedings. Continuation of proceedings against the petitioners/A.1 to A.3 will not amount to abuse of process of law. The Criminal Petition is devoid of merit and is liable to be dismissed.

6. In the result, the Criminal Petition is dismissed.

Miscellaneous Petitions, if any, pending in this Criminal Petition,
shall stand closed.

Dr. SHAMEEM AKTHER, J

28th February, 2018
Bvv

