

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.5351 of 2013

ORDER:

This criminal petition is filed, seeking for quash of the proceedings in Cr.No.59 of 2011, against the petitioner, on the file of the Station House Officer, Kaikaluru Police Station, Krishna District. The offences alleged are under Sections 322, 354(A)(1)&(ii), 448 and 506 of the Indian Penal Code and Section 156(3) of the Criminal Procedure Code.

2. Heard the counsel for the petitioner and the learned Public Prosecutor, appearing for the first respondent. None appears for second respondent in spite of notice.

3. A perusal of the complaint shows that on 22.04.2013, when the complainant was working in the cattle shed, the accused came there at 10.30 AM along with his men and caught hold of her tuft, pulled her by abusing as to who is she to reside in the said site and he also told that if she satisfies his lust, he will get the site registered in her name.

4. The counsel for the petitioner submits that there are property disputes between the parties and injunction is granted in favour of the petitioner by virtue of order in O.S.No.119 of 2013 dated 14.04.2013 on the file of the Senior Civil Judge, Machilipatnam and that this incident is subsequent to the said order.

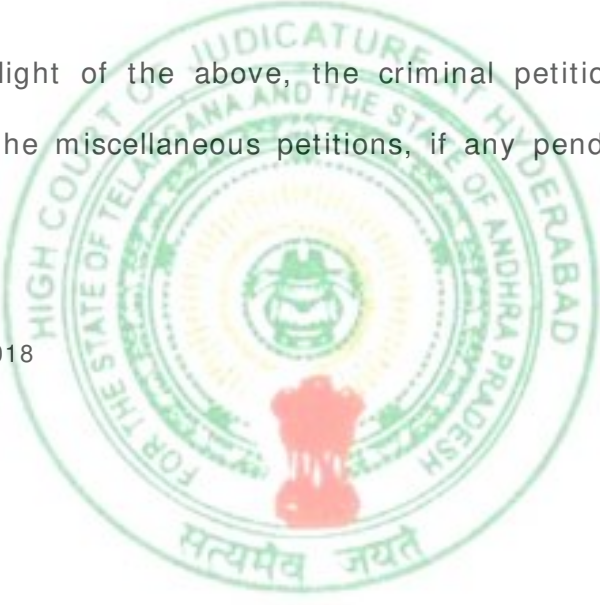
5. But from the averments made in the complaint, the place of offence seems to be cattle shed. Whether the cattle shed mentioned in the complaint is the same property, which is in dispute, cannot be

understood from the complaint. Hence, merely because there were previous disputes, it cannot be straight away said that this complaint is filed with a malafide intention, more so, when the complaint cites some witnesses, as persons, who have witnessed the incident and tried to interfere and rescue the complainant. Hence, this Court opines that this is not a fit case for quash of proceedings.

6. However, considering the request of the counsel for the petitioner, the police are directed to follow Section 41-A of the Criminal Procedure Code and the guidelines in ARNESH KUMAR v. STATE OF BIHAR¹ before effecting the arrest of the petitioner.

In the light of the above, the criminal petition is dismissed. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

September 28, 2018
DSK


T. RAJANI, J

¹ (2014) 8 SCC 273