

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.7161 of 2011

ORDER:

This petition is filed, seeking for quash of the proceedings against the petitioners, who are A1 and A2, in C.C.No.88 of 2011 on the file of V Additional Judicial Magistrate of First Class, Kakinada. The offences alleged are under Sections 406, 465 and 468 IPC.

2. Heard the counsel for the petitioners as well as the counsel for the 1st respondent and the Public Prosecutor, appearing for the 2nd respondent.

3. The case is based on a private complaint filed by the complainant. The facts of the case are that A1 and A2 are tenants of the 1st respondent and they were running a school in the said building. The allegations are that the petitioners made some changes to the building without the permission of the 1st respondent.

4. A reading of the complaint shows that the first allegation relates to the year 1988, wherein the 1st accused is alleged to have raised thatched class room sheds on northern, western vacant portions of house sites and started running classes in the house and the second allegation pertains to the year 2002, wherein A1 and A2 demolished the terrace and tiled house relating to the complainant, in his absence. The complaint was filed only on 16.06.2009. There is enormous delay in filing the complaint.

5. The counsel for the 1st respondent submits that the petitioners brought into existence a fabricated letter as if the 1st respondent has accorded permission to effect the changes and that it came to his notice only when the petitioners filed a suit for recovery of the amount expended for the changes. But the suit is filed on 26.03.2008, which is also much before the date of this complaint.

6. The counsel for the petitioners submits that the suit filed by the 1st respondent for evicting the petitioners from the premises was ordered and the petitioners ceased to be in possession of the property since 2011.

7. Hence, considering the above facts, this court opines that further proceedings in the said CC would only result in abuse of process of law and this appears to be purely a civil dispute. The course for the parties is to work out their remedies by way of a civil suit.

8. With the above observations, the Criminal Petition is allowed and the proceedings against the petitioners, who are A1 and A2, in C.C.No.88 of 2011 on the file of V Additional Judicial Magistrate of First Class, Kakinada, are hereby quashed.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

T. RAJANI, J

August 14, 2018
LMV