

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION NO.9330 OF 2017

ORDER:

This petition is filed by the petitioners-A1 to A5 under Section 482 Cr.P.C. to quash the proceedings in C.C.No.118 of 2015 on the file of the Special Mobile Judl. Magistrate of I Class, Kakinada, which was taken cognizance of the offences punishable under Sections 427, 506 and 509 r/w 34 IPC.

2. Heard learned counsel for the petitioners, learned Assistant Public Prosecutor representing the State and perused the record.

3. Learned counsel for the petitioners would submit that there are civil suits pending in respect of the property in dispute. The allegations do not constitute the offences referred above. There is no cause of action. If the de facto complainant is aggrieved, he ought to have brought to the notice of the civil Court and sought appropriate remedy and ultimately, prayed to allow the petition.

4. On the other hand, learned counsel for the 2nd respondent would submit that pendency of civil suit is distinct from the allegations made in the report as well as charge sheet. The petitioners-accused trespassed in the house of the de facto complainant and damaged the cattle shed and abused the wife of the de facto complainant in filthy language. There are also allegations constituting the offences, for which, the petitioners were charge sheeted. There are no circumstances to concede the request of the petitioners and ultimately, prayed to dismiss the petition.

5. Learned Assistant Public Prosecutor would submit that there are number of allegations against the petitioners which are required to be decided by a competent criminal Court and ultimately, prayed to dismiss the petition.

6. The point for determination is whether the proceedings in C.C.No.118 of 2015 on the file of the Special Mobile Judl. Magistrate of I Class, Kakinada, are liable to be quashed?

7. As per the material placed on record, the de facto complainant is a resident of R.R. Nagar, Kakinada. L.W.2-Posina Veera Venkataramana is his wife. Father of L.W.2, by name, Madduri Venkataratnam gave Ac.1.00 of land to her as 'Pasupu Kunkuma' under a registered document No.38 of 1984, dated 14.02.1984. Father of L.W.2 died on 28.12.1989. From the date of registration of the document, L.W.2 is in possession and enjoyment of the said land. An extent of 610 square yards was given by L.W.2 to her daughter by name Pabbineedi Swathi Lakshmi under a registered gift deed. Similarly, she conveyed an extent of 1598 square yards to her younger daughter by name Posina Mani Ratnam on 05.11.2007. Swathi Lakshmi in turn sold the land gifted to her on 13.03.2013 to Chitturi Satyanayrana and Mudunuri Gayathri. The petitioners have been raising objections to the alleged gift settlement deed as well as the alienation of the property by the daughter of L.W.2. In that process, some civil suits were filed before the Courts. During the pendency of the suits, the petitioners were frequently disturbing the peaceful possession and enjoyment of the purchaser as well as L.Ws. 1 and 2. On 08.06.2013 at 10 A.M., the petitioners alleged to have trespassed into the house and damaged the cattle shed and

made an attempt to occupy the disputed property belonging to L.W.2 and others. There are also allegations against the petitioners that they have threatened the de facto complainant and his wife with dire consequences, insulted her modesty in public place and used abusive language. There are also witnesses who supported the case of the prosecution. There are also other allegations constituting the offences referred above. The contentions raised on behalf of the petitioners are required to be determined in criminal trial with regard to the innocence or otherwise. Merely because, the civil suits are pending between the parties to the litigation, that itself is not a ground to quash the proceedings. Therefore, continuation of proceedings is not an abuse of process of law.

8. Accordingly, the Criminal Petition is dismissed. Miscellaneous petitions, if any pending in this Criminal Petition shall stand closed.

DR.SHAMEEM AKTHER, J

DATED: 21-02-2018.

Hsd