

THE HON'BLE SRI JUSTICE N.BALAYOGI

CRIMINAL PETITION No.3829 of 2011

ORDER:

This petition under Section 482 of Cr.P.C. is filed by accused No.1 seeking to quash the proceedings in Crime No.86 of 2010 on the file of Venkatagiri Police Station, Nellore District.

2. The contention of the petitioner-A.1 is that the entire complaint does not make out any case much less the offences under Sections 188 and 447 IPC. The allegations in the complaint do not specify the date and time about the alleged flouting of the orders under Section 145 of Cr.P.C. and also regarding the criminal trespass except bold allegations and that no specific overt acts were attributed against the petitioner herein.

3. On the other hand, the learned Assistant Public Prosecutor contended that specific overt acts are attributed to the petitioner in the complaint and that there is no ground to interfere with the impugned proceedings. Further the investigation into the crime is completed and the police also filed a charge sheet which was numbered as C.C.No.154 of 2012.

4. Now the point that arises for consideration in this petition is:- 'whether there is any *prima facie* material to prosecute the petitioner for the alleged offences?'

5. A perusal of the record goes to show that the first respondent herein filed a complaint against the petitioner herein and others on 11.07.2010, which was registered as Crime No.86 of 2010 for the offences punishable under Sections 188 and 447 IPC. The

allegations in the complaint are that the petitioner trespassed into the forest Government land to an extent of Ac.2.00 cents in Sy.No.74, situated at Basavayigunta Village, Venkatagiri Mandal, Nellore District in violation of the proceedings initiated under Section 145 Cr.P.C. The Tahsildar, Venkatagiri Mandal filed a complaint on 11.07.2010 for taking action against the petitioner and others.

6. The case of the petitioner is that on 11.10.2005 the petitioner along with others approached the first respondent for assigning the Government land to an extent of Ac.2.00 cents each in Sy.No.74, Basavayigunta Village and eventually, the request of the petitioner and others was culminated in their favour by assigning 'D' Form pattas and handing over the vacant possession of the land. While so, on 10.1.2011, since the first respondent made attempts to dispossess one Smt.Y.Geeta and 65 others, they approached this Court by filing W.P.No.1380 of 2011 and this Court in WPMP.No.1680 of 2011 in W.P.No.1380 of 2011 directed the respondents not to dispossess the petitioners therein from the subject-lands except in accordance with due process of law.

7. The record further goes to show that the petitioner filed the present petition on 8.4.2011 seeking to quash the proceedings in Crime No.86 of 2010. It is pertinent to note that this Court by order dated 28.09.2011 in Crl.M.P.No.4088 of 2011 granted interim stay. But as per the record produced by the learned Assistant Public Prosecutor, investigation into the crime has already been completed and a charge sheet was also filed on 30.07.2011 and it was numbered as C.C.No.154 of 2012. Thus, the charge sheet was filed even prior to granting of interim stay by this Court. Further as

seen from the complaint, specific overt acts are attributed to the petitioner that he along with others trespassed into the Government land in Sy.No.74, situated at Basavayigunta village in spite of initiating proceedings under Section 145 of Cr.P.C. No material is placed to establish any abuse of process of Court and hence, I find no ground to quash the impugned proceedings.

8. In the result, the Criminal Petition is dismissed. The interim stay granted by this Court on 28.09.2011 in CrI.M.P.No.4088 of 2011 shall stand vacated.

Consequently, Miscellaneous Petitions pending, if any, shall stand closed.

20th February 2018
Tsr

JUSTICE N.BALAYOGI

