

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 6035 OF 2018

ORDER:

This criminal petition is filed under Section 482 of the Code of Criminal Procedure (for short, "Cr.P.C.") by the petitioners to quash the proceedings in Crime No. 386 of 2017 of Kazipet Police Station, Warangal District, registered for the offences punishable under Sections 447, 379, 323, 290 and 506 read with Section 34 of IPC.

2. Respondent No. 2-the *de facto* complainant lodged a report with the police alleging that the petitioners trespassed into his house, committed theft of electric meter and beat him with hands and kicked with legs and also threatened to kill him. Basing on the report, the police registered the above crime for the offences referred *supra* and issued F.I.R.

3. The present petition is filed to quash the proceedings on the ground that all the petitioners are in possession and enjoyment of the property and the dispute between the parties is purely civil in nature and the allegation that the petitioners whitewashed the house is sufficient to conclude that the petitioners are in possession and enjoyment of the property and thereby question of commission of any offence much less the above offences does not arise.

4. At the hearing, learned counsel for the petitioners has contended that the civil dispute is converted into criminal and therefore the police cannot investigate into such incident.

5. According to learned counsel for the petitioners, there is a dispute with regard to title to the property and while petitioner No. 1 is claiming to be the owner of the property by virtue of registered document bearing No. 6420 of 2017

dated 20-06-2017, respondent No. 2 is also claiming to be the owner of the property having purchased the same in the year 2003 under registered sale deed and constructed a room therein. While it stands thus, on 04-12-2017 at about 10 a.m., the petitioners allegedly trespassed into the house of respondent No. 2 and when the latter questioned the same, the former abused him in filthy language and beat him with hands while threatening to kill him. The allegations made in the written report lodged with the police would disclose commission of the above offences. Both the petitioners and respondent No. 2 are claiming ownership over the property basing on certain documents. The genuineness or otherwise of the documents cannot be decided in a petition of the present nature. If the investigating officer finds no material against the petitioners, I am sure he will file final report referring the case as mistake of fact or false and in case the investigating officer finds sufficient material against the petitioners for the offences referred *supra*, till then he may file final report under Section 173 (2) of Cr.P.C. but at this stage, the proceedings cannot be quashed as the investigation is at feotus stage. The Apex Court in State of **Orissa Vs. Saroj Kumar Sahoo**¹ held that the inherent powers under Section 482 of Cr.P.C. should not be exercised by High Court to stifle a legitimate prosecution. The High Court, being the highest Court of a State, should normally refrain from giving a *prima facie* decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. In the case on hand, the investigation is at the threshold and at this stage, this Court cannot exercise its inherent jurisdiction under Section 482 of Cr.P.C. to quash the

¹ (2005) 13 SCC 540

proceedings, more particularly when the allegations made in the complaint would constitute the above offences. Consequently, the petition is liable to be dismissed.

6. The criminal petition is dismissed. Pending miscellaneous petitions, if any, in this criminal petition shall stand dismissed in consequence.

Date: 14-06-2018.

M.SATYANARAYANA MURTHY, J.

JSK

