

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.6100 OF 2018

ORDER:

This criminal petition is filed by the petitioner/accused No.1 under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in C.C.No.62 of 2017 separated from C.C.No.131 of 2015 (Old C.C.No.105 of 2012) pending on the file of the Court of Special Metropolitan Magistrate, Cyberabad at Hayathnagar, registered for the offence punishable under Sections 147, 341, 342, 509, 506, 427 read with 34 of Indian Penal Code (for short "I.P.C.").

The allegation made against in the charge sheet is specific and the same is extracted hereunder.

"L.W.1 purchased Ac.7.21 gts of land in Sy.No.597 situated at Peddamberpet Village, Hayathnagar Mandal, RR District from L.W.5 and her brother Sri Y.Gopala Krishna vide Regd. Agreement for sale cum GPA with possession bearing No.817/2011, dt.11.4.11. LW -1 converted the land into house sites and developed the same in the name of "Mallikharjuna Nagar" and sold out the plots to aspirant buyers. L.Ws.2 and 3 are wives of watchmen in the above said venture. While the things stood thus, on 18.9.11 in the morning at about 5 AM, A1 and A2 along with hired 1) Blue White Terex Vectra JCB bearing No.AP11AE0180, 2) Yellow colour JCB bearing No.AP 29 L 1287, 3) Blue White Terex Vectra JCB bearing No.AP 29BC 7745 came to the above venture of LW-1 in two cars bearing Nos.AP 28 AS 1241 (Black Colour Scoda), AP 29AE 8789 (Black colour scorpeo) and criminally trespassed into the venture. On seeing this, LWs 2 to 4 tried to restrict them from criminal trespassing into the venture. But A1 and A2 tore off clothes of LWs 2 and 3 and put LWs 2 to 4 into fear by showing knives and threatened them with dire consequences and confined them in their huts. As per the directions of A1 and A2, the drivers of hired JCBs demolished the two buildings in the venture and also dug the roads and damaged them. On receipt of the information, LW-1 along with LW-5 rushed to the scene. On seeing them, A1 and A2 fled away from

there. Thus, A1 and A2 committed offences punishable u/s.147, 341, 342, 509, 506, 427 IPC r/w 34 IPC.”

As the petitioner herein was absent before the Court, the trial Court separated the case against the petitioner and proceeded against accused No.2 for the offences referred above and by its calendar and judgment dated 23.06.2017 in C.C.No.131 of 2015 the Magistrate found accused No.2 not guilty for the offence punishable under Sections 147, 341, 342, 509, 506 and 427 of I.P.C. and acquitted him under Section 255 (1) of Cr.P.C.

Since the accused No.2 was acquitted for the offences referred above based on the testimony of same witnesses, the petitioner herein is also entitled to be acquitted and the proceedings against him are liable to be quashed.

During hearing, Sri Metta Chandrashekhara Rao, learned counsel for the petitioner contended that when accused No.2, who is similarly placed with the accused No.1 is found not guilty for the same charges, the proceedings against the petitioner herein are liable to be quashed and he placed reliance on “**Pothula Suresh v. The State of A.P.**”¹”

A copy of the judgment in C.C.No.131 of 2015 rendered against accused No.2 is also placed on record for perusal of the Court. There is no dispute with regard to acquittal of accused No.2 for the same charges and finding him not guilty after full-fledged trial. When the evidence adduced before the Court is not supporting the case of prosecution in total and failed to establish the case against accused No.2, proceeding against the

¹ 2011 CrLJ 609

petitioner/accused No.1 for the same offences is futile exercise and would not yield any result of conviction on the basis of testimony of witnesses proposed to be examined in the present C.C.62 of 2017.

This Court in “**Pothula Suresh v. The State of A.P.**” (referred supra) considered the scope of Section 482 of Cr.P.C. and held that when some of the accused in the same case found not guilty and acquitted after full-fledged trial, the proceedings against the other accused are liable to be quashed. By applying the principle laid down in the said judgment, the proceedings against the petitioner herein are liable to be quashed.

In the result, the criminal petition is allowed. The proceedings in C.C.No.62 of 2017 in C.C.No.131 of 2015 (Old C.C.No.105 of 2012) on the file of the Court of Special Metropolitan Magistrate, Cyberabad at Hayathnagar, are hereby quashed against the petitioner herein. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

25.06.2018
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