

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 6921 OF 2018

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') to quash the proceedings in crime No. 336 of 2018 of Tenali III Town Police Station, Guntur District, registered for the offences punishable under Sections 447 and 506 of IPC.

2. Respondent No. 1 lodged a written report with the police alleging that he has been working as HPCL contractor; that there is one petrol bunk owned and operated by HPCL in Chenchupet, Tenali, and there are old constructions and that when he tried to remove the old constructions according to the authorization letter of HPCL and the orders of this Court, the petitioners highhandedly entered into the premises and threatened him with dire consequences. On the strength of the report, the above crime was registered and issued F.I.R.

3. The present petition is filed on the ground that the petitioners are owners of the subject property and there are disputes between the parties with regard to the same; that the landlord of the subject property filed O.S.No. 5 of 2012 on the file of the Court of Principal Junior Civil Judge, Tenali, against HPCL for eviction and the same was decreed; that feeling aggrieved, HPCL filed A.S.No. 16 of 2015 on the file of the Court of XI Additional District Judge, Telani, which was also ended in dismissal; that aggrieved thereby, HPCL preferred S.A.No. 1439 of 2017 before this Court and the same was also dismissed recording the undertaking given by the HPCL; that pending the first appeal, the landlord filed E.P.No. 28 of 2015 for execution of the decree, in which the petitioners filed E.A.No. 105 of 2018 claiming right over the subject property which is pending for consideration and that while the things stood thus, the *de facto* complainant

entered highhandedly and when made an attempt to demolish the constructions illegally, the petitioners obstructed them and therefore requested this Court to quash the proceedings.

4. No doubt, several civil proceedings are pending between the parties. As on the date of incident, HPCL alone is in possession and enjoyment of the property. The petitioners claiming to be owners of the subject property filed claim petition. However, such an issue cannot be decided in the present petition. Moreover, filing of petition under Order XXI Rule 58 of C.P.C. to declare the rights of the petitioners is another strange circumstance since the suit is not for recovery of money or attachment of property to realize the decree debt and it is a suit for specific performance. In any view of the matter, the allegations made in the report *prima facie* show that the petitioners committed the above offences.

5. While deciding a petition under Section 482 Cr.P.C., the duty of the Court is look into the allegations made in the complaint and if the allegations constitute any offence, the Court cannot exercise such power. The inherent power under Section 482 Cr.P.C. can be exercised **only** in exceptional circumstances and not as a matter of routine. The power of this Court under Section 482 Cr.P.C. is limited and this Court can exercise such inherent jurisdiction only to give effect to the orders passed under the Code or to prevent abuse of process of the Court or to secure ends of justice. Keeping in mind the power of this Court under Section 482 Cr.P.C., the Apex Court in ***State of Haryana Vs. Bhajanlal***¹ laid down seven guidelines which are as follows:

"(1) *Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*

¹ 1992 Supp. (1) SCC 335

- (2) *Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code.*
- (3) *Where the allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
- (4) *Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code.*
- (5) *Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*
- (6) *Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*
- (7) *Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."*

Even according to the above guidelines, when the allegations made in charge sheet or F.I.R. disclose commission of any offence on their face value, the Court cannot exercise its inherent power under Section 482 Cr.P.C. Here in this case, the allegations made in the report would constitute *prima facie* the above offences. Therefore, I find no ground to quash the proceedings at this stage and the petition is liable to be dismissed.

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

Date: 05-07-2018.

JSK

M.SATYANARAYANA MURTHY, J.

