

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.7466 of 2011

ORDER:

This petition is filed seeking for quash of the proceedings against the petitioners, who are the accused, in C.C.No.252 of 2009 on the file of IV Additional Chief Metropolitan Magistrate at Visakhapatnam.

2. Heard the counsel for the petitioners and the Public Prosecutor appearing for the 1st respondent. None appears for the 2nd respondent in spite of notice.

3. The counsel for the petitioners takes this court to the background facts of the case, which are, in brief, as follows:

Initially, the complainant filed a complaint before the Station House Officer, III Town Police Station, Visakhapatnam, against the 1st petitioner and his family members, which was registered as Crime No.261 of 2008. During the course of investigation, the police in collusion with the accused, as alleged in the complaint, referred the said case as civil in nature. Thereafter, the complainant filed a protest petition, on the basis of which the court by order, dated 21.04.2011, took cognizance of the same. While the matter stood thus, earlier, on 27.03.2008, the 1st petitioner filed a complaint against the 2nd respondent and his family members before the Station House Officer, III Town Police Station, Visakhapatnam and since the police advised him to seek his remedies through a civil court, petitioners 1 and 2 filed a suit in O.S.No.334 of 2008 before the Court of the II Additional Junior Civil Judge, Visakhapatnam, and

obtained interim injunction in IA No.276 of 2008 in OS No.334 of 2008 against the respondent therein, who is none other than the 2nd respondent/*de facto* complainant herein. Subsequent to the said interim injunction, the 2nd respondent filed protest petition, referred to supra.

4. The counsel for the petitioners submits that the suit was subsequently decreed in favour of petitioners 1 and 2.

5. A perusal of the order passed in IA No.276 of 2008 in OS No.334 of 2008 would show that the court concluded that, *prima facie*, possession was found to be in favour of the 1st petitioner herein. Hence, in view of the above, this court opines that the protest petition filed by the complainant is only a counter blast to all the above proceedings taken by the petitioners and the result of the interim injunction being granted and that this is only an attempt made by the *de facto* complainant to some how redress his grievance, by harassing the petitioners.

6. With the above observations, the Criminal petition is allowed and the proceedings against the petitioners, in C.C.No.252 of 2009 on the file of IV Additional Chief Metropolitan Magistrate at Visakhapatnam, are hereby quashed.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

T. RAJANI, J

January 2, 2018
LMV