

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION No.14092 OF 2011

ORDER:

This Criminal Petition, under section 482 of Cr.P.C., is filed by the Petitioners/A-1 and A-2 seeking to quash the proceedings in C.C. No.156 of 2011, on the file of the Court of Judicial First Class Magistrate, Vayalpad, Chittoor District, registered for the offences punishable under sections 447, 420 and 379 R/w.34 of I.P.C.

2. Heard learned counsel for the petitioners, learned counsel for the 1st respondent – *de-facto* complainant, and learned Public Prosecutor appearing for the 2nd respondent – State.

3. Learned counsel for the petitioners submits that though the complainant had a hypothecation agreement with the petitioners in respect of a Tractor, the complainant fell due some installments and hence by invoking the appropriate clause in the agreement, the petitioners have seized the Tractor and the Tractor is still left with the petitioners. The complaint is filed stating that the petitioners have family disputes with the complainant and hence they came to the fields of the complainant and beat her. The Police investigated the case and filed final report stating that the contents of the complaint are false. Against that, a protest petition was filed by the complainant and the Court, after recording the sworn statement of the complainant, took cognizance of the case for the offences alleged in the complaint.

4. But the admitted facts are that there was a hypothecation agreement between the complainant and the petitioners and that A-1 is agent of A-2, who is the Branch Manager of a Finance Company. Some amount is still due by the complainant to the petitioners. Hence, in the background of these facts, the act of the petitioners in going to the fields of the complainant, seizing the

Tractor, has to be considered only as an act done to implement the terms of the hypothecation agreement, which permit them to seize the Tractor.

5. There is absolutely no ground laid by the complainant with regard to the previous disputes that existed between the petitioners and the complainant. Hence, without there being any evidence, at least *prima-facie*, for the family disputes between the complainant and the petitioners, it cannot be said that the petitioners came to the fields of the complainant and beat her. Moreover, the fact that petitioners have given finance to the complainant for purchasing the Tractor would show that they did not keep in mind the dispute, if any, between the complainant and themselves. It appears from the face of it the allegations in the complaint seem to be falsely foisted against the petitioners. If there is any dispute with regard to the installments, that are due under the hypothecation agreement, the same has to be resolved by approaching a competent civil Court.

6. Hence, in view of the above, this Court opines that continuation of further proceedings against the petitioners would result in sheer abuse of process of law.

7. Therefore, the Criminal Petition is allowed and all further proceedings in C.C. No.156 of 2011, on the file of the Court of Judicial Magistrate of First Class, Vayalpad, Chittoor District, against the petitioners, are hereby quashed.

8. As a sequel, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

T. RAJANI, J

Date: 24.09.2018.
Dsh

SMT JUSTICE T.RAJANI

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