

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.8129 of 2018

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings in Crime No.921 of 2017 of Chandanagar Police Station, Cyberabad District, registered for the offences punishable under Sections 448, 506, 323 read with 34 IPC, against the petitioner/A2.

The petitioner is A2 in the above crime. The specific allegation made by the 2nd respondent is that on 24.12.2017 at about 07.30 PM her daughter-in-law Anuradha and her grand sons E.Jeevan Kumar and E.Abhilash and Rahul Yadav, Sarath and some other unidentified persons came illegally to their house and abused her in filthy language and came to beat her, her younger son obstructed them. Thereupon, the above persons abused him in filthy language and beat him. When his grand son also obstructed them, the said persons abused them in filthy language and threatened to kill them and requested to take necessary action since the entire incident is recorded in CC TV footage. On the basis of the written report, the police registered the above crime and issued FIR.

Questioning the registration of crime, the present petition is filed contending that there was civil dispute between the parties and O.S.No.327 of 1983 was filed by Eddu Balaiah and three others for partition on the file of Additional Senior Civil Judge, Ranga Reddy District and the same was decreed on 30.06.1988. In the said suit, the said will propounded by the petitioner was not proved. Then defendants 1 to 3 therein filed A.S.No.129 of 1989 before this Court and this Court was pleased to allow the appeal on 09.09.1997 holding that the Will does not suffer from any infirmity and consequently, the property covered by Will is ordered and directed to be subjected to disposition in accordance with the Will. The remaining suit scheduled property shall be subjected to partition between the heirs in accordance with law, and before drawing a

preliminary decree, the trial Court shall cause guardian ad litem of the first plaintiff to be appointed, in accordance with law, to look after the interests of the 1st plaintiff in the Will as well as in the partition. Appeal allowed accordingly with no order as to costs.

Aggrieved by the judgment in A.S.No.129 of 1989, S.L.P.No.2436-2437 of 1999 was filed before the Supreme Court of India. At that stage, the parties entered into compromise and compromise was recorded, but the signature in the compromise petition does not belong to the mother of the petitioner/A2 and the same were forged and fabricated by Eddu Devanand. The decree was passed in terms of compromise alleging 50% of the property claimed by the defendants and it was allegedly gifted to the petitioner. Therefore, he became the owner and entitled to enter into possession of the property and the 2nd respondent is not entitled to collect rent from the tenants in occupation and they entering into the premises as they are having 50% share by virtue of the gift deed, therefore, it does not constitute offence and prayed to quash the proceedings.

During hearing, learned counsel for the petitioner reiterated the contentions of the petitioner while contending that the petitioner is the joint owner of the property having 50% share out of 1000 sq. yards by virtue of the gift deed. Therefore, the petitioner being lawful owner entitled to enter into the property and the 2nd respondent cannot obstruct the petitioner from entering into joint property and that the petitioner did commit no offence muchless the above offences. Learned counsel also contended that initially, the name of the petitioner was deleted in the charge sheet and in Column No.13 it was shown that A2 was absconded, separate charge sheet will be filed and due to pressure of the 2nd respondent such mention is made in Column No.13 and requested to quash the proceedings.

Whereas, learned Public Prosecutor contended that the entire investigation in this case is completed and charge sheet is filed against the other accused since the petitioner was absconding while reserving right to file separate charge sheet against the petitioner/A2 after his arrest. Therefore, it is clear from the record that entire investigation is completed and due to abscondence of the petitioner, charge sheet was not filed against him and requested to dismiss the petition.

It is an undisputed fact that there was a civil litigation between the petitioner and the 2nd respondent, which went up to the Supreme Court and compromise decree was passed in SLP. It is the specific contention that 500 sq. yards was allotted to the petitioner by virtue of gift deed and therefore, he became a lawful owner of the part of the property, which is allegedly in occupation of the 2nd respondent. The 2nd respondent contended that she is in occupation of the house and when she is in the house, the petitioner along with others illegally entered into the house and abused her in filthy language and made an attempt to cause injuries and when the same was resisted by his son and grand son, the petitioner abused them in filthy language. Though the petitioner entitled to 50% share the property still not divided by metes and bounds, it is deemed to be in joint possession and even otherwise, he is owner of the entire property, he is not entitled to enter into the property, which is in occupation of the third party and abuse them and the petitioner has to take steps through process of the Court. Instead of resorting to such procedure, the petitioner allegedly entered into the house and abused the inmates of the house and beat son and grand son of the 2nd respondent, which would attract the offences punishable under Sections 448, 323 and 506 IPC. Therefore, the petitioner though a joint owner of the property having share of 500 sq. yards out of one thousand sq. yards, the act committed by the petitioner, which was recorded in CC TV footage discloses the highhanded act committed by the petitioner and such act would attract the

above offences. Hence, the contention of the petitioner that he is entitled to enter into the property and acted in such manner cannot be accepted. It is contended that a false complaint was lodged against the petitioner and the charge sheet was not filed initially as per the endorsement of the Magistrate, but due to pressure charge sheet is filed mentioning that the charge sheet will be filed against the petitioner whenever he was arrested that it means, the petitioner is successfully avoiding his arrest and not cooperating with the investigating agency. As such the petitioner is not entitled to claim any discretionary relief in the present petition under Section 482 Cr.P.C. more particularly when the allegations made in the complaint constitute offence on accepting on its face value and is liable to be dismissed.

In the result, the criminal petition is dismissed. However, the petitioner can renew his request at appropriate stage.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

02.08.2018
kvrn

M. SATYANARAYANA MURTHY, J