

THE HON'BLE SRI JUSTICE N.BALAYOGI

CRIMINAL PETITION No.8261 of 2011

ORDER:

This petition under Section 482 of Cr.P.C. is filed by the complainant seeking to quash the orders dated 14.07.2010 in C.C.No.376 of 2006 on the file of Additional Judicial First Class Magistrate, Kaikaluru, which is confirmed in CrI.R.P.No.43 of 2010 on the file of XI Additional District & Sessions Judge at Gudivada dated 27.06.2011.

2. The contention of the petitioner-complainant is that there is prima facie case against the second respondent-accused as can be seen from the evidence of P.Ws.1 and 2 and the trial Court ought to have framed charges against the accused for the offence under Section 420 IPC. The trial Court hastily issued show cause notice to the petitioner by invoking the provision under Section 250 Cr.P.C. which is an abuse of process of law, which caused much prejudice to the petitioner herein.

3. Per contra, the learned Assistant Public Prosecutor contended that the order of the trial Court was confirmed by the XI Additional District & Sessions Judge, Krishna, Gudivada by order dated 27.06.2011 in CrI.R.P.No.43 of 2010 and that the trial Court was perfectly right in invoking the provision under Section 250 Cr.P.C.

4. Heard the learned counsel for the petitioner, learned Assistant Public Prosecutor for first respondent and the counsel for the second respondent. Perused the material available on record.

5. A perusal of the record goes to show that the petitioner made a complaint alleging that he is the tenant of a shop of Sri Venkateswara Swamy Temple, Kaikaluru and that he was got evicted by the Chairman i.e. the accused herein on the promise that the shops are to be reconstructed and a new shop will be allotted after such reconstruction, but however, no shop is allotted after the reconstruction. It is further alleged that the accused-second respondent received Rs.20,000/- from the complainant-petitioner herein. The trial Court having considered the evidence of P.Ws.1 and 2 and Ex.P.1 observed that it is a case of civil in nature and no ingredients are made out to attract an offence punishable under Section 420 IPC and that there is no substance to frame a charge against the accused-second respondent and while acquitting the accused, the trial Court also opined that it is a fit case to invoke the provision under Section 250 Cr.P.C. against the complainant-petitioner herein for making false accusation against the accused-second respondent and accordingly ordered show cause notice to the complainant-petitioner to appear before the trial Court on 21.7.2010 to explain as to why compensation should not be awarded to the accused. Aggrieved by the issuance of the said proceedings, the petitioner preferred Crl.R.P.No.43 of 2010 and the same was dismissed by the XI Additional District & Sessions Judge, Krishna at Gudivada by order dated 27.06.2011 confirming the order of the trial Court holding that the trial Court has considered the case on touching stone of judicial conscience and rightly discharged the accused not going blindly by the word of the complainant. Assailing the same, the petitioner has preferred the present petition.

6. It is appropriate to refer Section 250 Cr.P.C., which reads as under:

“250. Compensation for accusation without reasonable cause.

(1) If, in any case instituted upon complaint or upon information given to a police officer or to a Magistrate, one or more persons is or are accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits all or any of the accused, and is of opinion that there was no reasonable ground for making the accusation against them or any of them, the Magistrate may, by his order of discharge or acquittal, if the person upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one; or, if such person is not present, direct the issue of a summons to him to appear and show cause as aforesaid.”

7. From the above provision, it is clear that the Magistrate having considered the material and on hearing, if discharges or acquits the accused and if he is of the opinion that there was no reasonable ground for making the accusation against the accused, then the Magistrate, by his order of discharge or acquittal, if the person upon whose complaint or information the accusation was made is present, call upon him to the Court to show cause as to why he should not pay the compensation for such accused, and if the complaint is not present, direct the issue of summons to him to appear and show cause as aforesaid. As seen from the record, the trial Court strictly followed the provision under Section 250 Cr.P.C. and issued the show-cause notice to the petitioner-complainant to appear before the Court on 21.7.2010 to explain as to why compensation should not be awarded to the accused.

8. As already discussed above, the order of the trial Court is confirmed by the XI Additional District & Sessions Judge at

Gudivada in CrI.R.P.No.43 of 2010 by order dated 27.6.2011. I do not see any illegality or irregularity in the order of the trial Court invoking the provision under Section 250 Cr.P.C.

9. In the result, the Criminal Petition is dismissed. The interim stay granted by this Court on 25.06.2013 in CrI.P.M.P.No.2789 of 2013 shall stand vacated.

Consequently, Miscellaneous Petitions pending, if any, shall stand closed.

JUSTICE N.BALAYOGI

20th February 2018
Tsr

