

THE HONOURABLE Dr.JUSTICE B. SIVA SANKARA RAO

Criminal Petition No.11226 of 2017

ORDER :

The petitioner is the accused in C.C.No.8 of 2017 on the file of the I Addl.Chief Metropolitan Magistrate, Visakhapatnam, outcome of Cr.No.135 of 2015 of Parawada Police Station, Visakhapatnam, registered for offences punishable u/ sec.323 and 354 IPC, on report of the 2nd respondent/ defacto-complainant.

2. The contentions in the quash petition in seeking to quash the proceedings in the above Calander Case are that it is a false case foisted and the petitioner is innocent and nothing but a counterblast case to Cr.No.134 of 2015 registered on his report against the defacto-complainant and others for the offences punishable u/ sec.447 and 427 r/w 34 IPC by the self-same police and outcome of a civil litigation covered by O.S.No.220 of 1996 in relation to the property and the defacto-complainant having went unsuccessful, now adopting tactics in foisting cases and implicate falsely to wreck vengeance with spite and ill-will. Thus continuation of the proceedings is nothing but abuse of process, thereby liable to be quashed.

3. Whereas, it is the submission of the learned Public Prosecutor for the 1st respondent as well as the 2nd respondent that there is nothing to quashing proceedings against the petitioner in the above Calander Case and he is liable to be punished, and perused the material on record.

4. The crime is registered on 05.09.2014 on Medico-Legal intimation(MLC) of King George Hospital, Visakhapatnam by the Sub Inspector of Police, Parawada and he went to the hospital and recorded

statement of the defacto-complainant Smt. Y.S.Mani where she stated that she got 300sq.yards of site in Sy.No.153, Plot No.1198-A situated at Lankelapalem given to her as Pasupu-Kunkuma by her parents on the occasion of her marriage, that on 05.09.2015 at about 12.00 noon she engaged labour for construction of a compound wall therein and when the work was started, some unknown persons came in a car and questioned her as to who is the site owner and she replied that she is the owner of the site, then they warned her to be careful and went away. After 15 minutes, two persons came on a bike and went away by seeing the site and then three persons came and while they were taking photos, she questioned them for which one of the persons attacked her with a blade and she managed to escape and caught hold of his shirt collar. When he tried to slit her throat, she fended it off but she received injury on her neck and the person also pushed her into bushes and fled away and she cannot identify those persons who attacked her but one of the persons who came in Car supra bearing No.AP31 CL 7777 of Innova made is U.Venkateshwara Rao-the petitioner.

5. The Head Constable-L.W.12 registered said crime from the statement reduced to writing of the defacto-complainant and the L.W.13 Sub Inspector investigated and filed final report showing he examined the witnesses and recorded their statements in which it is disclosed that the counterblast case in Cr.No.134 of 2015 pending against the petitioner and others. Coming to the counter case facts, it is a report of the petitioner herein, registered as Cr.No.134 of 2015 which is first in point of time reads that in Sy.No.153/ 2C1E, of Lankelapalem to the extent of Ac.1-00cts was purchased by him in 1994 from one B.Sarojini and

constructed a compound wall later and also raised a shed therein however one Y.S.Mani who is the defacto-complainant herein along with her people on the previous day i.e. on 04.09.2015 came to the site and tried to demolish the compound wall and earlier also she tried to encroach the site which was prevented and she also approached earlier the SC Commission complaining as if the site belongs to her and she raised an illegal construction in the nearby site and attacked the camaraman when taken photos.

6. In fact, a perusal of the record shows one K.Suryakantham filed a suit O.S.No.220 of 1996 on the file of the Prl.Junior Civil Judge, Anakapalli against the petitioner U.Venkateshwara Rao for permanent injunction of the same property in Sy.No.153 for plot No.1198-A of 300sq.yards and the said suit was ended in dismissal, by order dt. 09.12.2005. Further the material placed on record shows said property is registered in the name of the petitioner-U.Venkateshwara Rao and Narasimha Rao as pattadars and persons in possession and he was also granted pattadar passbook besides his wife Jayasree as owner referring to 1994 sale deed of respective purchasers of Ac.0.75cents and 0.25cents total Ac.1-00cts and the Revenue Divisional Officer(for short, 'the RDO') given status report to the Collector in July, 2015 on the representation of Y.S.Mani in August, 2014 stating that her father purchased 300sq.yards in the year 1979 and he is in possession and when he intended to give the same to her as Pasupu Kunkuma, in the year 2011 when she tried to construct a boundary wall in the plot, the petitioner objected and she made complaint to the Parawada police in that regard. The report of the RDO shows that the petitioner-U.Venkateshwara Rao purchased the land

to the extent of Ac.1-00cts and is in possession. The encumbrance certificate shows there is no property standing either as vendee or donee in relation to any extent out of it in the name of the defacto-complainant. The sale deed of 1994 as source of title to the petitioner shows the vendors purchased the property under registered sale deed in the year 1978 from Pilla Siva Venkata Ramana. Thus it is predominantly a civil litigation the earlier complainant in the name of the petitioner including in the revenue records since purchased and the so called complaint of the defacto-complainant in the present crime No.135 of 2015 of accused allegedly beat and tried to interfere with her property and outraged her modesty is nothing but a false accusation for she never in possession of the property from the material on record and therefrom continuation of the proceedings which predominantly a civil litigation by adding criminal flavour is nothing but abuse of process, hence the same is liable to be quashed.

7. In the result, the Criminal Petition is allowed by quashing the proceedings against the petitioner/ accused in C.C.No.8 of 2017 on the file of the I Addl.Chief Metropolitan Magistrate, Visakhapatnam, outcome of Cr.No.135 of 2015 of Parawada Police Station, Visakhapatnam. The petitioner/ accused is acquitted and his bail bonds shall stand cancelled. Pending miscellaneous petitions, if any, shall stand closed.

Date:31.12.2018
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Dr. B.SIVA SANKARA RAO J,