

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION NO.11872 OF 2017

ORDER:

This petition is filed by the petitioners-A1 and A2 under Section 482 Cr.P.C. to quash the proceedings in C.C.No.456 of 2017 on the file of the Judl. Magistrate of I Class, Adoni, Kurnool District, wherein cognizance was taken for the offences punishable under Sections 353 and 506 r/w 34 IPC.

2. Heard learned counsel for the petitioners-A1 and A2, learned Assistant Public Prosecutor representing the State, learned counsel for the 2nd respondent-de facto complainant and perused the record.

3. Learned counsel for the petitioners-A1 and A2 would submit that the land in dispute belongs to the petitioner-A1. The petitioner-A1 has filed W.P.No.1755 of 2017 before this Court to direct the concerned to pay compensation in respect of digging bore well in his land. On service of notice, a false report was lodged with the police with a delay of about four months. On that, the impugned charge sheet was filed and C.C. number was given. There are statements of witnesses, which show that bore well was dug in the land belonging to the petitioner-A1. The petitioners are not responsible with regard to the allegations made in the charge sheet as well as in the report given to the police. No alleged incident took place and ultimately, prayed to allow the petition.

4. On the other hand, learned Assistant Public Prosecutor opposed the relief sought for by the petitioners in the petition.

5. Learned counsel for the 2nd respondent-de facto complainant would submit that the petitioner-A1 indulged in cutting the electricity supply to the public bore well dug by RWS department to supply drinking water in the village. There are specific and grave allegations against the petitioners. There are no circumstances to quash the proceedings and ultimately, prayed to dismiss the petition.

6. In view of contentions put forth by both the counsel, the point for determination is whether the proceedings in C.C.No.456 of 2017 on the file of the Judl. Magistrate of I Class, Adoni, Kurnool District, are liable to be quashed?

7. As per the material placed on record, the 2nd respondent-de facto complainant is working as Panchayat Secretary of Dibbanakallu village Gram Panchayat, Adoni Mandal. L.W.2 is working as A.E.E. of the said village. Under RWS scheme, a bore well was dug in the outskirts of Dibbanakallu village to supply drinking water to the Dibbanakallu villagers. By the side of the land of the petitioner-A1, the said bore well was dug 3 years prior to the alleged incident. The said bore well is being used for supply of drinking water. The petitioners-A1 and A2 obstructed the waterman, M.Hussaini (L.W.5) when he went to release the water from the bore well and the petitioners contended that the bore well belongs to them as it was dug in their land. There are also allegations against the petitioners-A1 and A2. On several occasions, they have damaged the cable wire connected to the said bore well. Further on 03.04.2017 morning at 10.00 A.M., when the de facto complainant along with other witnesses in this case went to the bore well in order to repair the wire which was said to have damaged by

the petitioners on the previous day, the petitioners said to have assaulted them and obstructed them in discharging their lawful duties. The contention of the petitioners is that the alleged offence took place in the month of March, 2017, whereas the report was lodged in the month of April, 2017. As seen from the record, there are specific allegations with regard to damaging the cable wire on earlier occasion also and also on 03.04.2017. When the report was given to the police on 03.04.2017 by the de facto complainant-K.Jyothi Sumanth, this case was registered, investigated and charge sheet was filed for the above offences. There are specific allegations constituting the offences mentioned in the charge sheet. There is no finding of any Court that the land where the bore well was dug belongs to the petitioners. As per the prosecution case, it is by the side of the land of the petitioners. The witnesses who deposed in favour of the prosecution supported the prosecution case and specifically stated that the disputed land is by the side of the land of the petitioner-A1. The truth or otherwise of the allegations do require full-fledged trial. At this juncture, it cannot be held that the petitioners are innocent persons and continuation of proceedings is an abuse of process of law. The petition is devoid of merit and is liable to be dismissed.

8. Accordingly, the Criminal Petition is dismissed. Miscellaneous petitions, if any pending in this Criminal Petition shall stand closed.

DR.SHAMEEM AKTHER, J

DATED: 13-03-2018.

Hsd