

THE HON'BLE JUSTICE G.SRI DEVI

CRIMINAL PETITION No.5639 of 2019

ORDER:

This Criminal Petition, under Section 482 Cr.P.C. is filed by the petitioners/accused Nos.1 to 3 seeking to quash the proceedings against them in C.C.No.132 of 2017 on the file of XVI Additional Chief Metropolitan Magistrate, Nampally, Hyderabad.

2. Heard the learned counsel for the petitioners/accused Nos.1 to 3, learned counsel for the 3rd respondent and perused the record.

3. The allegation levelled against the petitioners is that petitioner/accused No.1 is illegally constructing Ground + First Floor at House bearing No.13-6-758/3 by encroaching the Government land and by drilling the bore-well through the 3rd respondent-complainant's house. Aggrieved by the said action, the 3rd respondent filed W.P.No.44929 of 2016 and this Court granted stay. Even though this Court granted stay, the petitioner/accused No.1 is continuing with the construction work. While so, on 11.01.2017 GHMC officials visited the subject site for verifying the encroached land and later on the same date at about 11:30 hours, the petitioners/accused Nos.1 to 3 trespassed into the complainant's house and tried to manhandle him by holding his shirt collar and threatened him to kill as he filed writ petition. Basing on the above allegations, a case in Crime No.12 of 2017 for the offences punishable under Sections 448 and 506 read with 34 I.P.C. was registered against the petitioners/accused Nos.1 to 3.

4. Learned counsel for the petitioners/accused Nos.1 to 3 would submit that the petitioners as well as 3rd respondent are

neighbours; that the 3rd respondent with a malicious intention to stop the construction work of the petitioners, had conspired and filed the present case; that the petitioners never committed the alleged offences and ultimately, prayed to quash the proceedings against the petitioners.

5. All the contentions raised by the learned Counsel for the petitioners/accused Nos.1 to 3 relate to disputed questions of fact. The Court has also been called upon to adjudge the testimonial worth of the prosecution evidence and evaluate the same on the basis of various intricacies of factual details which have been touched upon by the learned Counsel for the petitioners/accused Nos.1 to 3. The veracity and credibility of material furnished on behalf of the prosecution has been questioned and false implication has been pleaded.

6. The law regarding sufficiency of material which may justify the summoning of the accused and also the Court's decisions to proceed against them in a given case is well settled. The Court has to eschew itself from embarking upon a roving enquiry into the last details of the case. It is also not advisable to adjudge whether the case shall ultimately end in conviction or not. Only a *prima facie* satisfaction of the Court about the existence of sufficient ground to proceed in the matter is required.

7. On perusal of the impugned charge sheet and the material in support of the same, this Court does not find it to be a case which can be determined or gone into in an application under Section 482 Cr.P.C. This Court cannot hold a parallel trial in an application under Section 482 Cr.P.C. No such ground appears to

be available to the petitioners/accused Nos.1 to 3 on the basis of which the impugned charge sheet can be quashed going by the settled law in *R.P.Kapur v. State of Punjab*¹; *State of Haryana v. Bhajan Lal*²; *State of Bihar v. P.P.Sharma*³ and *Zandu Pharmaceutical Works Limited v. Mohd. Saraful Haque and another*⁴. Hence, the prayer for quashing the proceedings in C.C.No.132 of 2017 on the file of XVI Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, is refused.

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

11th December, 2019
YVL

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¹ AIR 1960 SC 866

² (1992) SCC (Cr.) 426

³ (1992) SCC (Cr.) 192

⁴ (2005) SCC (Cr.) 283

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Date:11.12.2019

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