IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

TUESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HONOURABLE SRI JUSTICE T. VINOD KUMAR

CRIMINAL PETITION NO: 6256 OF 2020

Between:

O. Uma Devi @ V. Umadevi, W/o. O. Surendar, aged about 40 years, R/o. H.No. 6-5-4/1, Hanuman Temple, Balanagar, Hyderabad -500042.

...Petitioner

AND

1. The Station House Office, Balanagar Police Station, Cyberabad, represented its Public prosecutor, High Court of Telangana, Hyderabad.
2. V. Vijay Kumar, S/o Late. V.Sayulu, Occ. HDFC Branch Manager, age 42 years, N/o. H.No. 6-5-4/1, Hanuman Temple, Balanagar, Hyderabad -500042. Presently Residing address. D.No.201, Thirumala Nilayam, H.No.7-1-40, Ferozguda, Secunderabad-500011.

...Respondents

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to call for the records relating to the FIR vide Cr. No. 412 of 2020 dated. 6/11/2020 of Police Station Balanagar and quash the said FIR as the same is illegal and amounts abuse process of law since the Petitioner/Accused no. 2 herein has not committed any offences as alleged by the Respondents herein.

I.A. NO: 1 OF 2020

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to inter alia grant stay on all further proceedings including the arrest and appearance of the Petitioners/Accused No. 2 in connection with the FIR vide no. 412 of 2020 dated. 6/11/2020 of Police Station Balanagar pending disposal of the main Criminal Petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri M. Venkata Swamy, Advocate for the Petitioner and the Additional Public Prosecutor on behalf of the Respondent No.1 and of the Respondent No.2 not appearing in person or by Advocate.

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

Criminal Petition No.6256 of 2020

ORDER:

The present Criminal Petition is filed under Section 482 of Cr.P.C. seeking to quash the FIR No.412 of 2020 dated 06.11.2020 of Balanagar Police Station registered for the offences punishable under Sections 448 and 506 read with Section 34 IPC wherein the petitioner is arrayed as sole accused.

2. Heard Sri M. Venkata Swamy, learned counsel for the petitioner/accused and learned Additional Public Prosecutor appearing for the first respondent-State. Perused the material placed on record.

3. With the consent of the learned counsel appearing for the parties, the criminal petition is taken up for hearing through Video Conferencing in the virtual Court today, i.e., 15.12.2020.

4. The learned counsel for the petitioner would submit that the petitioner and the *de facto* complainant/second respondent are brother and sister and there are *inter se* disputes pending between them with regard to the partition of properties. The learned counsel for the petitioner would further submit that this Hon'ble Court in Writ Petition No.11909 of 2020 also observed that the disputes between the petitioner and the *de facto* complainant are civil in nature and thus, the learned counsel for the petitioner submits that the continuation of the present crime would be clearly an abuse of process of law.

5. However, after making initial submissions, the learned counsel for the petitioner would submit that the petitioner would cooperate with the investigation provided the petitioner is extended

the benefit of Section 41-A of Cr.P.C. and also directing the first respondent/investigating agency not to take any coercive action while investigating into the above crime registered in order to bring out the truth.

6. The learned Additional Public Prosecutor, on the other hand, would submit that the first respondent/investigating agency would issue notice under Section 41-A of Cr.P.C. and would also follow the guidelines laid down by the Hon'ble Supreme Court in ***Arnesh Kumar v. State of Bihar***[1].

7. Having regard to the submissions made as above, and also taking into consideration the fact that the petitioner and the *de facto* complainant are sister and brother and also the existence of *inter se* disputes between the petitioner and the *de facto* complainant/second respondent with regard to the partition of properties, this Court is of the view that the first respondent/ investigating agency can be directed to issue notice under Section 41-A of Cr.P.C. and also to strictly follow the guidelines laid down by the Hon'ble Supreme Court in ***Arnesh Kumar***'s case (supra). Further, the first respondent/investigating agency shall not take any coercive action against the petitioner till filing of the final report in the above crime on completion of the investigation.

8. Subject to the above observation and direction, the criminal petition is disposed of. Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

[1] (2014) 8 SCC 273

Sd/-N.CHANDRASEKHAR RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The XI Metropolitan Magistrate, Kukatpally.
2. The Station House Officer, Balanagar Police Station, Cyberabad.
3. Two CCs to the Additional Public Prosecutor, High Court for the State of Telangana, at Hyderabad [OUT]
4. One CC to Sri M. Venkata Swamy, Advocate [OPUC]
5. Two CD Copies

MMK

HIGH COURT

TVKJ

DATED:15/12/2020



ORDER

CRLP.No.6256 of 2020

DISPOSING OF THE CRIMINAL PETITION

24/12/2020.