IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

MONDAY, THE TWENTY EIGHTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HONOURABLE SRI JUSTICE T. VINOD KUMAR

CRIMINAL PETITION NO: 6446 OF 2020

Between:

Yosuf Baba @ Mohd. Abdul Majid, s/o Mahboob Ali, age 52 years, Occu. Agriculture and Business, R/o. Elgandal Village of Kothapalli (H) Revenue Mandal Karimnagar District at present residing in H.No. 2-7-702, Mukarrampura, Karimnagar.

...Petitioner/Accused No.1

AND

1. The State of Tealngana, represented Public Prosecutor, High Court of Hyderabad.
2. The SHO Kothapalli (Haveli), Karimnagar District.

...Respondents/Complainants

3. Burra Mahesh, s/o. Rajamallu, age 28 years, R/o Elgandal, Village of Kothapalli Revenue Mandal Karimnagar District.

...Respondent/Defacto Complainant

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 quash Cr. No. 185 of 2020 under Sec. 427 IPC r/w Sec. 34 IPC on the file of the respondent No.2.

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 dispense with filing certified copy of FIR No.185 of 2020 dated 03/10/2020 on the file of Office of respondent No. 2.

I.A. NO: 2 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 grant stay of further proceedings in Crime No.185 of 2020 on the file of the respondent No.2 including the arrest of the petitioner in connection with said crime pending disposal of the above Quash Petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri C. Ramesh Sagar, Advocate for the Petitioner and the Additional Public Prosecutor on behalf of the Respondent Nos. 1 and 2 and of the Respondent No.3 not appearing in person or by Advocate.

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

Criminal Petition No.6446 of 2020

ORDER:

The present Criminal Petition is filed under Section 482 of Cr.P.C., seeking to quash the Crime No.185 of 2020, dated 31.10.2020 on the file of the Station House Officer, Kothapalli (Haveli) Police Station, Karimnagar District, registered for the offences punishable under Section 427 read with Section 34 IPC, wherein the petitioner is arrayed as accused No.1 (A.1).

2. Heard Sri C. Ramesh Sagar, learned counsel for the petitioner/A.1 and learned Additional Public Prosecutor appearing for respondent Nos.1 & 2. 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., 28.12.2020.

4. The learned counsel for the petitioner would submit that the entire dispute for which the present complaint has been lodged by the 3rd respondent/*de facto* complainant is relating to a land admeasuring Ac.3.20 guntas. It is also submitted that there are *inter se* disputes pending before the competent court of civil jurisdiction between the petitioner/A.1 and the *de facto* complainant. The learned counsel would further submit that in order to exert pressure on the petitioner/A.1, the 3rd respondent/*de facto* complainant has lodged the present complaint by giving a criminal color to an otherwise the civil dispute.

5. The learned Additional Public Prosecutor, on the other hand, would submit that based on the complaint made by the 3rd

respondent/*de facto* complainant, the 2nd respondent police authority has registered a complaint and is causing investigation there into. However, the learned Additional Public Prosecutor does not dispute the claim of the petitioner that there are *inter se* civil disputes pending before the competent court of jurisdiction between the petitioner/A.1 and the 3rd respondent/*de facto* complainant.

6. Having regard to the submissions made as above and considering the fact that the complaint relates to the land dispute, this Court is of the view that, while the respondent authority can proceed with the investigation into the crime registered, the respondent police authority can be directed to follow the procedure under Section 41-A of Cr.P.C. and also to follow the guidelines laid down by the Hon'ble Supreme Court in ***Arnesh Kumar v. State of Bihar***[1].

7. In view of the above, the second respondent police authority is hereby directed to follow the procedure prescribed under Section 41-A of Cr.P.C. by issuing notice to petitioner while proceeding with the investigation in the above crime and also strictly follow the guidelines laid down by the Hon'ble Supreme Court in ***Arnesh Kumar***'s case (supra). It is needless to mention that the petitioner herein shall cooperate with the investigation and produce the necessary information and documents as and when required by the investigating agency.

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[1] (2014) 8 SCC 273

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.

Sd/-B.SATYAVATHI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Additional Judicial First Class Magistrate, at Karimnagar.
2. The Station House Officer, Kothapally Police Station, Karimnagar District.
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana, at Hyderabad [OUT]
4. One CC to Sri C. Ramesh Sagar, Advocate [OPUC]
5. Two CD Copies

MMK

HIGH COURT

TVKJ

DATED:28/12/2020



ORDER

CRLP.No.6446 of 2020

DISPOSING OF THE CRIMINAL PETITION

05/01/2021.