

HONOURABLE JUSTICE G.SRI DEVI

CRIMINAL PETITION No. 10219 of 2018

ORDER:

The present Criminal Petition is filed by the petitioners/ A-1 to A-4, under Section 482 of Cr.P.C., seeking to quash the proceedings initiated against them in C.C.No.281 of 2018 on the file of the VIII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad.

Brief facts of the case are that the father of the 1st respondent/ *de facto* complainant had purchased a house bearing No.23-6-856 situated at Rambaksh Banda, Shalibanda, Hyderabad. After the death of the parents of the 1st respondent, his sisters and brothers have executed a G.P.A. in the year 2012 and gave the said house to him. The petitioners, who are his neighbours, used to spread rumours that his property is lavaris property and tried to grab his house and also damaged the eastern wall of the house of the 1st respondent, as such he approached the Police, Moghalpura and lodged complaint, but police have not taken any action against the petitioners. On 20.04.2014 when the 1st respondent went to his house, the petitioners have abused him in filthy language, assaulted him and also damaged the western side wall of the house. On 30.04.2017 when the 1st respondent went to his house, noticed that waste material was dumped in front of his house and the tin sheet partition made by the 1st respondent with iron rods towards western side of his house was also removed by the petitioners and committed theft of silver articles, one teak wood

almirah, one pot, one table, teak wood wooden beams, T.V., Radio, sarees and other household articles by entering into his house from Western side.

Heard the learned Counsel for the petitioners, learned Counsel appearing for the 1st respondent, learned Additional Public Prosecutor appearing for the 2nd respondent-State and perused the record.

Learned Counsel for the petitioners would submit that the learned Magistrate erred in taking cognizance of offence without application of mind on facts and material evidence on record and issuance of summons to the petitioners had seriously prejudiced the liberty of the petitioners. He further submitted that the ingredients to constitute the said offences are not made out and petitioners have not committed any offence muchless the offences alleged, therefore continuation of proceedings against the petitioners would amount to an abuse of process of law.

Learned counsel for the 1st respondent would submit that all the petitioners have damaged the eastern side wall of the house of the 1st respondent and when the same was asked by him, all the petitioners have abused him in filthy language, assaulted him and also damaged the western side wall and committed theft of the articles. He further submits that after recording the evidence of P.Ws.2 and 3, who witnessed the incident, the learned Magistrate has taken cognizance against the petitioners as such no error has been committed by the learned Magistrate.

A perusal of the material on record would show that after recording the evidence of P.Ws.1 to 3, the learned Magistrate has taken cognizance against the petitioners. P.Ws.2 and 3, in their evidence categorically deposed that they have witnessed when the petitioners have damaged the wall of the house of P.W.1 (1st respondent). Therefore, their evidence *prima facie* established that the 1st respondent is the owner of the premises and the petitioners, who are his neighbours, have damaged the eastern side wall of his house and when he asked about the same, the petitioners have abused him in filthy language, assaulted him and also damaged the western side wall of the premises also. In view of the above, 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. Hence the prayer for quashing the proceedings against the petitioners in C.C.No.281 of 2018 on the file of the VIII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, is refused.

Accordingly, the Criminal Petition is dismissed. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

JUSTICE G. SRI DEVI

19.02.2020
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