

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**MONDAY, THE EIGHTH DAY OF AUGUST
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE Dr. JUSTICE D.NAGARJUN

CRIMINAL PETITION NO: 2099 OF 2018

Between:

1. Vali Kedharinath, S/o V. Veerabhadrapa, aged 41 years, Occ: Business, R/o H.No. 7-3-17, Seetharampet, Tandur, RR Dist
2. Nagalah @ Modisetty Nagaiah, S/o Gungalah, aged 40 years, Occ: Business, R/o H.No. 4-3-12/1, ShivajiChowk Tandur, Ranga Reddy District, Telangana State
3. Vijay Kumar @ Sirigiripet Vijay Kumar, S/o Baburao, aged 49 years, Occ: Business, R/o 1-198/1, Sirigiripeta Tandur, Ranga Reddy District, Telangana State

...PETITIONERS/ACCUSED No.1 to 3

AND

1. State of Telangana, rep by its Public Prosecutor, High Court at Hyderabad
2. Mani Kishore, S/o Pundarikan, aged 43 years, Occ: Business, R/o H.No. 5-5-44 Tandur Vikarabad District, Telangana State

...RESPONDENT/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 the proceedings against the petitioners in FIR.No.274 of 2017 on the file of PS Tandur Town, Vikarabad District.

I.A. NO: 1 OF 2018

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 stay all further proceedings including arrest of the petitioners in FIR.No. 274 of 2017 on the file of PS, Tandur Town, Vikarabad District, 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 P. Vamsheedhar Reddy, Advocate for the Petitioner and the Assistant Public Prosecutor (TG) on behalf of the Respondent No.1 and of Sri B. Shashidhar, Advocate for the Respondent No.2.

The Court made the following: ORDER

THE HON'BLE DR. JUSTICE D. NAGARJUN

CRIMINAL PETITION No.2099 of 2018

ORDER:

This petition is filed seeking quashment of FIR.No.274 of 2017 on the file of Tandur Town Police Station, Vikarabad District, which is filed against the petitioners for the offence under Sections 447, 427, 504 read with 34 IPC.

2. The brief facts as per the FIR are that on 18.12.2017 at 2.00 p.m. all the accused trespassed into his land in Sy.No.121 of Tandur Town belonging to the de-facto complainant with JCB bearing No.AP 04 8463 and started digging pits by dismantling the compound wall, when the de-facto complainant tried to intervene, he was abused in filthy language.

3. The complaint filed by the de-facto complainant was registered as FIR.No.274 of 2017 and investigation was taken up. Challenging the said FIR, the present petition is filed seeking quashment on the ground that the petitioners are the owners of the said land and that no offence is committed by them.

4. Heard both sides and perused the record.

5. Now, the point for determination is whether FIR.No.274 of 2017 against the petitioners can be quashed?

6. It is submitted by the learned counsel for the petitioners that the petitioners being the members of Tandur Chemist and Druggist Association have purchased a plot bearing No.11 admeasuring 195 square yards in Sy.No.121 of Tandur Village under registered sale deed bearing document No.1862 of 2014. The petitioners have filed a copy of the said sale deed and encumbrance certificate to show that they purchased the said piece of land in plot No.11 from Kotha Narsaiah Goud. Petitioners have filed W.P.No.11213 of 2016 to declare the action of the Tandur Municipality in rejecting their application for granting permission for construction of a building over plot No.11, admeasuring 195 square yards in Sy.No.121 and on the basis of an objection of the de-facto complainant. The said writ petition was allowed, setting aside the rejection order dated 12.08.2015 with a direction to the Municipal authorities to issue notice to the petitioners in respect of the objections received and take a decision whether to give permission or not to the petitioners for construction of a building.

7. On considering the above, it is clear that the petitioners are claiming rights over 195 square yards of land in Plot No.11 of

Sy.No.121 of Tandur town. However, the petitioners have not filed the link documents to show from whom they have purchased the plot. The petitioners have also not filed copy of the layout to show that the land in Sy.No.121 was converted into housing plots in an approved layout out of which they have purchased Plot No.11 under the registered sale deed.

8. The de-facto complainant is claiming the land to an extent of Ac.2.00 in Sy.No.121 of Tandur Village belonging to him. According to respondent No.2, the piece of land being claimed by the petitioners is part and parcel of the land purchased by him. Respondent No.2/de-facto complainant also has not filed any document, including link documents, to show that he has right, title and possession over the land being claimed by him.

9. The petitioners as well as respondent No.2 are claiming right, ownership and possession over the piece of land under dispute. The question to be determined is whether the petitioners or the de-facto complainant have title and possession over the disputed land. The case registered against the petitioners is under Section 447 IPC. In order to conclude that there is no case against the petitioners, this Court is required to record a finding that the petitioners are the owners of the property and that respondent No.2 has no right over it, this

Court in a petition under Section 482 Cr.P.C., cannot record such finding, as trial is required to be conducted with reference to the title over the disputed piece of land, thereby it cannot be held as to who has title and possession over the disputed property.

10. The petitioners have filed this petition for quashment of the FIR. The petitioners should have waited for some more time permitting the police to complete the investigation so that the police could have investigated whether the petitioners are the trespassers or not considering the documents submitted by both sides.

11. Further, the petitioners have filed w.P.No.11213 of 2016 for a direction to Municipal Department for grant of permission for construction of a building, as some objections were raised in respect of grant of permission. The petitioners though have filed a photograph to show that the building has already been constructed, no document is filed to show that subsequent to the directions of this Court in W.P.No.11213 of 2016, the Tandur Municipal authorities have issued permission to them for construction of the building.

12. Unless and until deep examination in respect of title is done, whether the petitioners have trespassed into the land or not cannot be arrived at. On the basis of the material available before the Court, it cannot be recorded that there is no prima facie case against the petitioners and hence, the FIR against the petitioners cannot be quashed.

13. In the result, the criminal petition is dismissed. However, the petitioners are at liberty to challenge the charge sheet in case if charge sheet is filed by the police after investigation

Miscellaneous petitions, if any, shall stand dismissed.

**SD/-T.SRINIVAS
DEPUTY REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To,

1. The Judicial First Class Magistrate, Tandur at Tandur of Vikarabad District.
2. The Station House Officer, Tandur (Town) Police Station, Vikarabad District.
3. One CC to Sri P. Vamsheedhar Reddy, Advocate [OPUC]
4. One CC to Sri B. Shashidhar, Advocate [OPUC]
5. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad. [OUT]
6. Two CD Copies
7. One Spare Copy

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HIGH COURT

DATED: 08/08/2022

ORDER

CRLP.No.2099 of 2018



DISMISSING THE CRL.P

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