

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.7552 of 2022

ORDER:

1. This Criminal Petition is filed to quash the proceedings against the petitioner/Accused in C.C.No.270 of 2022 on the file of XVII MM Court, Rachakonda Commissionerate, Maheshwaram, R.R.District.

2. The Police filed charge sheet against the petitioner for the offence of criminal trespass, cheating, assault and criminal intimidation which are punishable under the provisions of Sections 447, 427, 323, 504 & 506 IPC.

3. The 2nd respondent filed complaint to the police stating that his father owned Acs.19.04 gts and he was cultivating the land after his death. On 02.06.2022, the Supervisor of 1st respondent called him stating that his sister Maredu Hemalatha and the petitioner, who is his son-in-law went to the land and were arranging boards and CCTV cameras. Immediately, the 1st respondent went to the said premises and found the petitioner and others at the scene. When questioned, the petitioner threw the 2nd respondent on the ground and beat him and abused in filthy language and threatened. Having registered the complaint, the

police visited the premises and conducted scene of offence panchanama. Since no offence was made out against the mother and brother of the petitioner, their names were deleted. However, the petitioner was charge sheeted.

4. Learned counsel for the petitioner would submit that admittedly civil suit is pending for partition in between the family members. The Civil Court by order dated 03.03.2012 had granted preliminary decree for partition of the property in question. The suit was filed by the 1st respondent against the family members including the mother of the petitioner, who is the sister of the 1st respondent.

5. Admittedly, the civil Court had decreed the suit in part by granting preliminary decree for partition of the plaint schedule property and the property was divided into four equal shares and allotted one each in favour of the 1st respondent herein, the mother of the petitioner and two others. Public notice board was erected along with CCTV cameras in the land that was partitioned by the Civil court and which allegedly fell to the share of the mother of the petitioner. In the said circumstances, when the mother of the petitioner held 1/4th share of the entire property, the question of criminal trespass does not arise.

6. No where in the complaint, the 1st respondent had stated the facts about the civil Court granting four equal shares of the property and the details of the partition suit filed by the petitioner was also suppressed. Even during the course of investigation, the police had not taken into consideration the dispute regarding the property and also the partition suit that was filed by the 1st respondent and the consequent decree by the Civil court. For the reason of suppression of material facts also, the case filed by the 1st respondent is liable to be dismissed.

7. Though the complainant claimed that he was threatened by this petitioner, there is no mention of any utterances that were made by the petitioner herein to intimidate the petitioner. In the back ground of family disputes, the 1st respondent not even being examined by a doctor, not mentioning the alleged utterances to attract criminal intimidation and most importantly suppressing material facts regarding the pending civil disputes and the decree passed by the civil Court in the partition suit filed by the 1st respondent, the proceedings against the petitioner are liable to be quashed.

8. In the result, the proceedings against the petitioner /Accused in C.C.No.270 of 2022 on the file of XVII MM Court, Rachakonda

Commissionerate, Maheshwaram, R.R.District, are hereby quashed.

9. Accordingly, the Criminal Petition is allowed. Consequently, miscellaneous applications pending, if any, shall stand disposed.

Date:28.02.2023
kvs

K.SURENDER, J

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.7552 of 2022

Dated: 28.02.2023

kvs

