

HON'BLE SRI JUSTICE K.SURENDER
CRIMINAL REVISION CASE No.474 OF 2008

JUDGMENT:

1. The petitioner/ complainant is questioning the correctness of the order of the X Additional Chief Metropolitan Magistrate, Secunderabad in Criminal M.P.No.826 of 2008 in Crime No.731 of 2006 dated 18.02.2008 in refusing to take cognizance on protest petition filed by the petitioner herein. Petition was filed after the Police, Chilkalguda Police Station filed final report in Crime No.731 of 2006, stating that the case was 'civil in nature'. The crime was registered on the basis of the complaint of this petitioner.

2. Briefly, the facts of the case are that a private complaint filed was by this petitioner and the learned Magistrate referred the complaint to the police for the purpose of investigation. In the said complaint, it is stated that he was tenant in the premises owned by the respondents 1 to 3. They tried to dispossess the petitioner illegally from the premises, for which reason, they instigated the respondents 5 to 7 to demolish the property. A civil suit was filed by this petitioner for restraining the Respondents, which was dismissed and later CMA was filed which was also dismissed. On 20.05.2006, the respondents' 2 to 7 broke open the locks of the

house and demolished the house in part when the petitioner was in Vijayawada. The door locks were broken and walls demolished and the house hold articles were thrown out. The petitioner made enquiries with one Ravi and Narsimha, who informed that the respondents 2 to 7 trespassed into the house and demolished the walls. Immediately, complaint was filed with the Police, but the police did not take said complaint. For the said reason, private complaint was filed after the directions of this Court in W.P.No.17485 of 2006 to file private complaint if police did not register a case. The police, having investigated the case filed final report under Section 173 of Cr.P.C stating that the complaint was civil in nature. Aggrieved by the said final report, protest petition was filed requesting the Additional Chief Metropolitan Magistrate, Secunderabad to take cognizance of the offence against the respondents 2 to 7 for their alleged acts.

3. Learned Magistrate, having examined the petitioner and two others by a detailed order, refused to take cognizance against the persons having found that the petitioner had adopted dubious means and approached civil court and also this Court by suppressing vital facts and obtained interim orders in the said

case. The rights of the owners of the building, the respondents 2 and 3, who are the real landlords were questioned by suppressing facts and the respondents were made to go around the Courts, on the basis of false litigation that was instituted by the petitioner herein.

4. Learned counsel appearing for the petitioner would submit that in fact the petitioner was trying to protect his property from the respondents and also GHMC. However, the learned Magistrate, without application of mind refused to take cognizance when the statement of the petitioner disclosed cognizable offences of criminal trespass, mischief and theft punishable under Sections 448, 379 and 406 of IPC.

5. A plain reading of the orders of the learned Magistrate refusing to take cognizance, there is nothing illegal or improper in the said order. Learned Magistrate found that the claims of the petitioner were incorrect and further, the petitioner was litigant monger and falsely implicated the respondents in cases before the Courts by misleading the Courts in the form of suppressing facts and obtained interim orders. On facts also, the evidence of the petitioner is hearsay in nature. He states that he was in Vijayawada

when the alleged breaking of the lock took place and when articles were thrown out. The other witnesses, who are examined were also examined during the course of investigation and the police did not find that this petitioner is speaking truth, for which reason, the case was closed as civil in nature.

6. In the said circumstances, this Court does not find any reason to interfere with the order of the learned Magistrate refusing to take cognizance.

7. Accordingly, the Criminal Revision Case is dismissed. As a sequel thereto, miscellaneous petitions, if any, shall stand closed.

Date: 24.01.2023
kvs

K.SURENDER, J

THE HON'BLE SRI JUSTICE K.SURENDER

Criminal Revision Case No.474 of 2008

Dated: 24.01.2023

kvs