HON'BLE SMT. JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION No. 2224 OF 2023

ORDER:

This Criminal Petition is filed by the petitioner/ accused to quash the proceedings against him in C.C. No. 216 of 2021 on the file of the learned Judicial Magistrate of First Class, Jammalamadugu, of the offence under Section 447 of the Indian Penal Code.

2. As per the version of the petitioner, the dispute between the parties is essentially civil and revenue in nature, proceedings concerning the land and the entries in the revenue records have been pursued before the competent authorities and that the parties claim competing rights over the property. Further, learned counsel placed reliance on ***Smt. Mathri and Others v. State of Punjab*** [1] and ***Mungara Vikram Kumar Reddy v. State of Andhra Pradesh*** [2], and requested to quash the criminal proceedings.

3. The case of the prosecution, in brief, is that respondent No.2/ de facto complainant, an elderly woman, has been cultivating agricultural land in an extent of Ac.3.82 cents in Survey No. 506-2 of Chinthakunta village for several years and on 05.02.2021, the petitioner brought one JCB and tractors and attempted to occupy the said land and when the respondent No.2 and her family members objected, the petitioner threatened them. Basing on the report of respondent No.2, the instant crime is registered and after completion of investigation, the investigating officer filed charge sheet for the offence under Section 506 IPC.

4. Heard both sides and perused the material available on record.

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[1] 1963 SCC Online SC 180

[2] Crl.P.1953 of 2020, dated 02.04.2024.

5. The question for consideration is whether the allegations in the complaint and the material collected during investigation, even if taken at face value, disclose the essential ingredients of criminal trespass under Sections 441 and 447 IPC, or whether continuation of the prosecution would amount to an abuse of the process of court.

6. As seen from the record, basing on the report of respondent No.2, initially, registered a case in crime No.45 of 2021 of the offence under Section 506 IPC and after completion of investigation, laid charge sheet of the offence under Section 447 IPC alleging that the petitioner criminally trespassed into the land of respondent No.2 and tried to level the disputed land with JCB and tractors. As per Section 441 IPC, whoever enters into or upon property in the possession of another with intend to commit an offence or to intimidate, insult or annoy any person in possession of such property, or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intend to commit an offence, is set to commit criminal trespass. Therefore, the mere fact that a person entered upon disputed land or attempted to carry out agricultural work does not, by itself, establish criminal trespass. The prosecution must allege facts showing the complainant's possession and the specific intention required by the provision.

7. It is settled law that mere pendency of civil or revenue proceedings does not automatically bar criminal proceedings. A property dispute may also give rise to criminal liability where the facts independently satisfy the ingredients of an offence. At the same time, criminal law cannot be used merely to exert pressure in a dispute over title, possession or revenue entries. The Court must examine whether the allegations, read as a whole, disclose the offence charged, without conducting a trial or deciding disputed questions of title.

8. In the present case, the dispute appears to concern competing claims over agricultural land and the right to cultivate or possess it. As per the version of respondent No.2, petitioner brought machinery and tractors to the land and attempted to occupy or cultivate the said land. The material produced by the prosecution does not identify facts showing that the petitioner entered the land with the specific intention to commit an offence or to intimidate, insult or annoy the complainant in possession, as required by Section 441 IPC. The alleged threat, without further particulars connecting it to the statutory intention and the alleged trespass, does not by itself cure this deficiency in the case under Section 447 IPC.

9. The existence of rival claims does not establish that the petitioner was in lawful possession, nor does this Court decide that question in these proceedings. On the allegations as set out in the material placed for consideration, the essential intention required for criminal trespass is not sufficiently disclosed. The decisions relied upon by the petitioner are stated to support the principle that criminal proceedings should not be allowed to continue where the dispute is essentially civil and the allegations do not disclose a criminal offence. The present petition is being decided on the facts and the statutory ingredients discussed above, and not on any unverified proposition attributed to those decisions.

10. The principles laid down in ***State of Haryana and Others v. Bhajan Lal and Others***[3] indicate the recognised categories in which the inherent power may be exercised, including cases where the allegations, even if taken at face value, do not constitute an offence; where the uncontroverted allegations and material collected do not disclose the commission of an offence; or where continuation of the proceedings would otherwise result in an abuse of the process of the Court. However, the power is not intended to conduct a meticulous appreciation of the evidence or to determine the

[3] 1992 Supp 1 SCC 335

truthfulness of disputed factual assertions at the stage of considering a petition for quashing.

11. This Court is conscious that the power to quash criminal proceedings must be exercised with caution. Nevertheless, where the allegations, taken at face value, fail to disclose an essential ingredient of the offence alleged, requiring the accused to face a criminal trial would serve no legitimate purpose and would amount to an abuse of the process of court.

12. **In the result**, this Criminal Petition is allowed, quashing the proceedings against the petitioner in C.C. No. 216 of 2021 on the file of the learned Judicial Magistrate of First Class, Jammalamadugu, for the alleged offence under Section 447 IPC. It is made clear that this order shall not be treated as a finding on the title or possession of the disputed land. All issues relating to title, possession, revenue entries and any pending civil or revenue proceedings are left open to be decided by the competent forum in accordance with law.

As a sequel thereto, pending miscellaneous petitions, if any, shall stand closed.

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SUNITHA GANDHAM, J

Date: 03.11.2026
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