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APHC010411152023

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3604]
(Special Original Jurisdiction)

TUESDAY, THE 10th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION NO: 6205/2023

Between:

1. PILLALAMARRI SIVA KUMAR, S/O. VENKATA SUBBAIAH SARMA, HINDU, AGED ABOUT 56 YEARS, D.NO 32-13-53/B, JOURNALIST COLONY, A S RAMA RAO ROAD, VIJAYAWADA.

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, REP BY PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI.
2. KUKKAPALLIBAPANA SWAMY, S/O BAPANAIAH, AGED ABOUT 59 YEARS, RESIDING AT DOOR NO. 24-9/1-173, PAPATLAVARI STREET, VENKATESWARA MYDANAM, RAMAKOTI DEVASTHANAM, GANDHINAGAR, VIJAYAWADA

...RESPONDENT/COMPLAINANT(S):

Petition under Section 437/438/439/482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court pleased to quash the C.C.No.12 of 2022 on the file of 1st Additional Chief Metropolitan Magistrate, Vijayawada, NTR District, against the petitioner/Accused and pass

IA NO: 1 OF 2023

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to dispense with the filing of the Certified Copy of C.C.No.12 of 2022 on the file of 1st Additional Chief Metropolitan Magistrate, Vijayawada, NTR District, And pass such other order or orders as this Honourable court may deem fit and

IA NO: 2 OF 2023

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay of all further proceedings in C.C.No.12 of 2022 on the file of 1st Additional Chief Metropolitan Magistrate, Vijayawada, NTR District pending disposal of the Crl.P., and pass

IA NO: 3 OF 2023

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to Vacate the stay and also dismiss CRLP No.6205 of 2023, dated 11/10/2023 and pass appropriate orders in the matter and pass

Counsel for the Petitioner/accused:

1. SHAIK RAFI

Counsel for the Respondent/complainant(S):

1. PUBLIC PROSECUTOR (AP)
2. CHALASANI AJAY KUMAR

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION No. 6205 OF 2023

ORDER:

This Criminal Petition is filed by the petitioner/ accused to quash the proceedings against him in C.C. No.12 of 2022 on the file of the learned I Additional Chief Metropolitan Magistrate, Vijayawada, NTR District, for the offences punishable under Sections 448, 427 and 380 of the Indian Penal Code, 1860 (hereinafter referred to "IPC").

2. The case of the petitioner, in brief, is that the allegations made by respondent No.2 are false, he has not committed the alleged offences, without conducting proper enquiry, police registered the case and that the report was given only to give threats and to harass the petitioner, respondent No.2 had filed a suit under Section 6 of the Specific Relief Act, 1963, seeking recovery of possession of the immovable property and the said suit was dismissed by judgment and decree dated 19.02.2016 and the appeal said to have been filed by respondent No.2 was also dismissed, and continuation of the criminal proceedings would amount to an abuse of the process of Court.

3. Heard Sri T.V.P. Sai Vihari, learned counsel for the petitioner, Sri Ch.Venkat, learned counsel for respondent No.2, and Smt. K. Priyanka Lakshmi, learned Assistant Public Prosecutor. Perused the material placed on record.

4. Learned counsel for the petitioner submits that the dispute is essentially civil in nature, the civil suit and the appeal filed by respondent No.2 were dismissed and that there is no legally sustainable material to proceed against the petitioner for the alleged offences, and the suit filed by the petitioner is decreed and attained finality. Further, continuation of the proceedings would amount to an abuse of the process of Court. In support of the submissions,

reliance is placed on ***Priti Saraf and Another v. State (NCT of Delhi) and Another***[1], and ***Punit Beriwala v. State of NCT of Delhi and Others***[2].

5. Per contra, learned counsel for respondent No.2 submits that respondent No.2 had obtained an injunction order restraining the petitioner and others from entering the disputed property even before the alleged incident, specific allegations have been made against the petitioner and that the disputed questions of fact cannot be adjudicated in a petition filed under Section 482 Cr.P.C. The learned Assistant Public Prosecutor supports the submissions made on behalf of respondent No.2.

6. As seen from the record, basing on the report of respondent No.2, a case in Crime No.97 of 2015 is registered of the offences under Sections 448, 427 and 380 IPC against the petitioner and after completion of investigation, the investigating officer laid charge-sheet of the said offences alleging that respondent No.2 was carrying on real-estate business in the building bearing Door No.32-13-53/B, Journalist Colony, Siddhartha Nagar, Vijayawada, previously, respondent No.2 had filed O.S. No.695 of 2014 and obtained decree of perpetual injunction, when respondent No.2 went to his office on 02.02.2015, he found that the office lock had been broke opened and certain furniture items were missing and he came to know that the petitioner, who is brother of the owner of the building, had trespassed into the premises and committed the offence.

7. Record clearly refers to civil litigation between the parties in respect of the building bearing Door No.32-13-53B and the petitioner and another filed a suit in O.S. No.305 of 2015 seeking perpetual injunction and the same is decreed vide judgment dated 19.02.2016 and further, the suit filed by the respondent No.2 and another in O.S. No.339 of 2015 has been dismissed on the same date. Further, the appeal preferred by the respondent No.2 is also

[1] (2021) 16 SCC 142
[2] 2025 INSC 582

dismissed. These civil proceedings indicate that the parties have been asserting competing claims in relation to the property. However, the result of the civil proceedings, by itself, cannot conclusively determine whether the ingredients of the alleged criminal offences are made out. The criminal case must be examined on the basis of the allegations and the material collected during investigation.

8. It is also contended on behalf of respondent No.2 that an order of injunction was operating against the petitioner and others on the date of the alleged incident. The petitioner disputes the basis of that claim and relies upon the civil proceedings referred to above. At this stage, this Court is not required to decide the title to, or the lawful possession of, the disputed property. Equally, the mere existence of a civil dispute does not automatically bar criminal proceedings if the allegations disclose the commission of a criminal offence. The relevant question is whether the allegations in the report and the material collected during investigation, taken at their face value, disclose the essential ingredients of the offences alleged against this petitioner.

9. For an offence under Section 448 IPC, the prosecution must prima facie show criminal trespass into a building or other specified place, with the intention contemplated by Section 441 IPC. For an offence under Section 427 IPC, the material must disclose the commission of mischief as defined under Section 425 IPC, causing the requisite loss or damage. For an offence under Section 380 IPC, the material must prima facie disclose theft in a building, tent or vessel used as a human dwelling or for the custody of property. The mere fact that the parties are involved in civil litigation, or that one party claims ownership of the premises, is not by itself sufficient to establish or negate these ingredients.

10. The inherent power under Section 482 Cr.P.C. is to be exercised sparingly and with great caution. At this stage, the Court ordinarily cannot undertake a detailed examination of the reliability or genuineness of the

allegations or appreciate the evidence as if conducting a trial. At the same time, where the allegations, even if accepted in their entirety, do not constitute the offences alleged, or where the material collected does not disclose a prima facie case against the accused, continuation of the proceedings may amount to an abuse of the process of Court. In ***State of Haryana v. Bhajan Lal***[3], the Hon'ble Supreme Court illustrated the categories of cases in which the inherent jurisdiction may be exercised, including cases where the allegations do not prima facie constitute an offence, where the allegations and material do not disclose the commission of an offence, or where the proceedings are manifestly attended with mala fides.

11. As per the version of prosecution, the lock of the office was broke opened, furniture items were missing and the petitioner had trespassed into the premises. The record does not clearly set out the specific material collected during investigation to establish the petitioner's individual role in breaking open the lock, causing damage to the furniture or removing any particular articles. The judgments relied upon by the petitioner is ***Priti Saraf*** (supra) and ***Punit Beriwala*** (supra), reiterated that the High Court may interfere where the criminal process is being used to give a criminal colour to a dispute which, on the facts and material, does not disclose the ingredients of a criminal offence. However, those decisions do not lay down that every dispute having a civil dimension must necessarily result in quashing of the criminal proceedings. The facts and the material in each case have to be examined to determine whether the criminal allegations are independently sustainable.

12. In the present case, the material placed before this Court shows that the dispute between the parties is not an isolated disagreement but is directly connected with their rival claims over the subject land. The alleged incident is also stated to have occurred while the parties were asserting their respective

[3] 1992 Supp (1) SCC 335

claims over the same property. These circumstances assume relevance in assessing the nature and context of the criminal complaint.

13. In view of the pending civil litigation and the material produced by the prosecution does not provide sufficient basis to conclude that the criminal proceedings represent an independent prosecution arising out of a distinct criminal occurrence. The allegations are inseparably intertwined with the contest over possession of the land, and the criminal case appears to have been set in motion in the midst of that dispute. This Court is conscious that the allegations of trespass, mischief and theft of furniture items, if independently supported by legally admissible material, may constitute offences under IPC and that a civil dispute cannot confer immunity from criminal liability. Absolutely, there is no material to show in respect of the allegations of mischief and theft. In the charge sheet also, except merely mentioned Section 427 and 380, there is no material at all and further, material objections are shown as nil.

14. Having regard to the long standing civil disputes, particularly, the close connection between the alleged occurrence dispute over possession, and the overall circumstances appearing from the record, this Court is of the view that permitting the proceedings in C.C. No.12 of 2022 to continue against the petitioner would amount to an abuse of the process of the Court and this is a fit case to exercise the inherent jurisdiction under Section 482 Cr.P.C. to secure the ends of justice.

15. **In the result,** and for the foregoing reasons, this Criminal Petition is allowed, quashing the proceedings against the petitioner/ accused in C.C. No.12 of 2022 on the file of the learned I Additional Chief Metropolitan Magistrate, Vijayawada, NTR District, for the offences punishable under Sections 448, 427 and 380 of IPC.

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

SUNITHA GANDHAM, J

Dated: 06.11.2026
Cjp/ knl