

HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.6185 OF 2022

ORDER:

1. This Criminal Petition is filed to quash the proceedings against the petitioner/Accused in C.C.No.147 of 2021 on the file of II Additional Judicial First Class Magistrate, Karimnagar.

2. The case of the prosecution is that the 2nd respondent filed a complaint stating that this petitioner has trespassed into the property which was owned by his brother-in-law. When questioned, the petitioner had threatened the 2nd respondent. It is alleged by the 2nd respondent that a plot was purchased in Sy.No.947 to an extent of 330 sq.yds from his predecessor and thereafter, sold the said land to one P.Pavan Kumar on 13.09.2019, who is his brother-in-law and the said person is a resident of USA. On 23.10.2020, he received information that some persons had trespassed into the plot that was sold to his brother-in-law and the said trespassers were one N.Sridhar and N.Sathish. When questioned, they informed that the petitioner herein has sold them the plot.

Thereafter, both the persons i.e., Sridhar and Sathish made a phone call to this petitioner who went to the said plot and threatened the 2nd respondent with dire consequences, for which reason, complaint was filed, resulting in the charge sheet being filed for the offence under Sections 447 and 506 of IPC.

3. Learned counsel for the petitioner would submit that there are civil disputes in respect of the said land and this petitioner was rightful owner of the said plot. The question of trespassing into his own land does not arise. Accordingly, requested to allow the petition by quashing the proceedings against him in CC No.147 of 2021.

4. On the other hand, Sri Gummala Bhasker Reddy appearing for the 2nd respondent would submit that the petitioner had intentionally trespassed into the plot of the 2nd respondent, who is rightful owner and threatened, for which reason, the petitioner is liable to be prosecuted for the offence of criminal trespass and criminal intimidation, which was

rightly done by the police by filing charge sheet and prayed to dismiss the petition.

5. Having perused the record, the petitioner had purchased the said plot and sold it to two persons namely Sridhar and Sathish, who are brothers. The 2nd respondent had also sold the very same plot to his brother-in-law namely P.Pavan Kumar. There are pending civil disputes and as on the date of the alleged offence, neither the petitioner nor the 2nd respondent are owners of the said plot. Both of them have sold the plot, even according to the police investigation. The persons who are said to be the owners of the plot i.e., Pavan Kumar to whom the plot was sold by the 2nd respondent nor Sridhar and Sathish, to whom the plot was sold by the petitioner are witnesses in the said case. When both the petitioner and the complainant do not own the said plot, the question of criminal trespass does not arise and also in the back ground of the said persons to whom the plot was sold not being examined in the present case.

6. It amounts to criminal trespass when one enters into property of another, who is in possession, with intention to commit an offence or to intimidate or insult or annoy any person in possession of such property. The 2nd respondent, admittedly, sold the said property, for which reason, it cannot be said that he was in possession of such property. The petitioner had gone to the said premises on being called by the purchasers of the said plot and there upon an altercation ensued. There are no specific threats that were narrated by the 2nd respondent. It appears to be an altercation in the background of the civil disputes pending with respect to the said land. Admittedly, neither the petitioner nor the 2nd respondent are possessors of the said land. No useful purpose would be served in prosecuting this petitioner. For the said reasons of non examination of any of the purchasers, continuance of the prosecution is of no avail to the prosecution.

7. In the result, the proceedings against petitioner/Accused in C.C.No.147 of 2021 on the file of II Additional Judicial First Class Magistrate, Karimnagar, are hereby quashed.

8. Accordingly, the Criminal Petition is allowed. As a sequel thereto, miscellaneous petitions, if any, shall stand closed.

Date:18.01.2023
Note: LR copy to be marked.
B/o.kvs

K.SURENDER, J

THE HON'BLE SRI JUSTICE K.SURENDER

Cr1.P.No.6185 of 2022

Dated: 18.01.2023

kvs