

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.13877 of 2011

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure, 1973, to quash the proceedings in C.C.No.9 of 2009 on the file of the IV Metropolitan Magistrate, Bheemunipatnam.

The facts leading to filing of the present petition briefly are as follows: The first respondent preferred a complaint to the IV Metropolitan Magistrate, Bheemunipatnam, who referred the same to the Station House Officer, Anandapuram Police Station. The Station House Officer registered a case in Crime No.180 of 2007 for the offences punishable under Sections 182, 406, 419, 420, 435, 447, 468 and 120-B IPC. After completion of the investigation, the Station House Officer, Anandapuram, laid charge sheet against the petitioner-A3 and others.

Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor representing the first respondent-State.

As per the allegations made in the complaint, the petitioner-accused No.3 along with other accused, conspired to grab the land of the complainant, forged the signature of the complainant and sold the same to third parties.

The Court can quash the proceedings if the allegations made in the charge sheet do not constitute any offence much less the offences alleged to have been committed by the petitioner. This is not the stage to decide the truthfulness or otherwise of the allegations made in the charge sheet. The allegations made in the

charge sheet constitute the offences punishable under Sections 182, 406, 419, 420, 435, 447, 468 and 120-B IPC.

Learned counsel for the second respondent submitted that this Court dismissed the similar petitions filed by A-1 and A-6. A perusal of the order of this Court dated 07.02.2011 in Crl.P.No.4326 of 2009 reveals that the petition filed by A-1 under Section 482 Cr.P.C. was dismissed. Similarly, the petition filed by A-6 in Crl.P.No.1972 of 2009 under Section 482 Cr.P.C. was dismissed by this Court vide order dated 05.08.2010.

The allegations made against A-6 are almost similar with that of the allegations made against the petitioner/A-3. Viewed from factual or legal aspects, I am of the considered opinion that this is not a fit case to quash the proceedings in C.C.No.9 of 2009 against the petitioner/A-3.

Learned counsel for the petitioner submitted that the learned Magistrate has issued Non-Bailable Warrant against the petitioner/A-3 even though he was very much available in the village.

The petitioner/A-3 is at liberty to file petition under 70(2) Cr.P.C. to recall the N.B.W. If the petitioner/A-3 files such a petition, the learned IV Metropolitan Magistrate, Bheemunipatnam, is hereby directed to pass orders on the same day in accordance with law.

With the above observation, the Criminal Petition is dismissed. Consequently, the miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

T.SUNIL CHOWDARY, J

June 30, 2014.

RRB