

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**FRIDAY, THE TWENTY NINTH DAY OF JULY
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION NO: 6776 OF 2022

Between:

1. Banoth Balaji ~~and 7 others~~, S/o Venkatya, Age. 40 years, Occ. Farmer, R/o Laxmipuram Village, Konijerla Mandal, Khammam District.
2. Banoth Prasad, S/o Chatriya, Age. 35 years, Occ. Farmer, R/o Laxmipuram Village, Konijerla Mandal, Khammam District.
3. Banoth Naresh, S/o Chatriya, Age. 30 years, Occ. Farmer, R/o Laxmipuram Village, Konijerla Mandal, Khammam District.
4. Banoth Laxma, S/o Badya, Age. 57 years, Occ. Farmer, R/o Laxmipuram Village, Konijerla Mandal, Khammam District.
5. Banoth Vinod, S/o Laxman Age. 31 years, Occ. Panchayat Gummasta, R/o Laxmipuram Village, Konijerla Mandal, Khammam District.
6. Banoth Kiran, S/o Laxman Age. 28 years, Occ. Farmer, R/o Laxmipuram Village, Konijerla Mandal, Khammam District.
7. Nunavath Venkanna, S/o Mangthiya, Age. 36 years, Occ. Farmer, R/o Laxmipuram Village, Konijerla Mandal, Khammam District.
8. Banoth Ramesh, S/o Lachiram, Age. 40 years, Occ. Farmer, R/o Laxmipuram Village, Konijerla Mandal, Khammam District.

...PETITIONERS/ACCUSED No.1 to 8

AND

1. The State of Telangana, Represented through its Public Prosecutor, High Court for the State of Telangana, at Hyderabad.

...RESPONDENT No.1/RESPONDENT

2. Kavuri Satyanaraya, S/o Venkatramaiah, Aged. 53 years, Occ. Agriculture, R/o Laxmipuram village, Konijerla Mandal, Khammam District.

...RESPONDENT No.2/COMPLAINANT

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the proceedings in CC.No.740 of 2022 on the file of the learned III Additional Judicial First Class Magistrate at Khammam.

I.A. NO: 1 OF 2022

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings in CC.No.740 of 2022 on the file of the learned III Additional Judicial First Class Magistrate at Khammam including appearance of the Petitioners, pending disposal of the main quash petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri Kowturu Pavan Kumar, Advocate for the Petitioner and the Assistant Public Prosecutor (TG) on behalf of the Respondent No.1 and none appeared for the Respondent No. 2.

The Court made the following: ORDER

THE HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.6776 of 2022

ORDER:

Heard the submission of learned counsel for the petitioners/Accused Nos.1 to 8 as well as the learned Assistant Public Prosecutor, who is representing respondent No.1 - State.

2. Seeking to quash the proceedings that are pending against the petitioners/Accused Nos.1 to 8 in C.C.No.740 of 2022 that is pending on the file of the Court of III Additional Judicial Magistrate of First Class, Khammam, the present Criminal Petition is filed.

3. The crux of the case, as could be perceived through the contents of the charge sheet, is that respondent No.2/defacto complainant is a resident of Laxmipuram Village, Konijerla Mandal, Khammam District. The petitioners/Accused Nos.1 to 8 are also the residents of the same village. LW3 - Smt. Gali Vijaya Kumari is the sister-in-law of respondent No.2/defacto complainant. She has got Acs.3-22 gts. of agricultural land at Gubbagurthy Revenue Village of Konijerla Mandal. On 03.04.2020, the petitioners/Accused Nos.1 to 8 criminally trespassed into the said land and buried a dead body and further

damaged two small neem trees that were present there and thereby committed offences punishable under Sections 447, 427 r/w, Section 34 IPC.

4. Learned counsel for the petitioners contends that the petitioners have not committed any offences whatsoever and they are innocent and, indeed, the alleged place where the dead body was buried is a burial ground and hence neither the ingredients of Section 447 nor Section 427 IPC attracts to the case facts and thus the proceedings are liable to be quashed.

5. On the other hand, the learned Assistant Public Prosecutor contends that the petitioners trespassed into the private property and thereafter caused damage, and thus, the police laid charge sheet.

6. The relationship between the petitioners and the deceased, whose dead body was buried, is not known. On a query posed by this Court, learned counsel for the petitioners also failed to state the said relationship. That apart, triable issues are found. Whether the land in question is a private land or is a burial ground cannot be discussed and decided. When the prosecution

rests its case basing on some set of facts and supported by the statement of witnesses, this Court is of the view that quash of the proceedings is unsustainable.

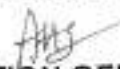
7. Therefore, the present Criminal Petition lacks merits and the same deserves to be dismissed.

8. Resultantly, this Criminal Petition is dismissed.

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

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SD/-T.SRINIVAS
DEPUTY REGISTRAR


SECTION OFFICER

To,

1. The III Additional Judicial First Class Magistrate at Khammam.
 2. One CC to Sri Kowturu Pavan Kumar, Advocate [OPUC]
 3. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad. [OUT]
 4. Two CD Copies
 5. One Spare Copy
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HIGH COURT

DATED: 29/07/2022



ORDER

CRLP.No.6776 of 2022

DISMISSING THE CRL.P

⑦ Copies
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21/9/22