

(2023) 01 TEL CK 0025
In the Telangana High Court
Case No : Criminal Petition No. 2501 Of 2021

Balugam Rajashekar And 2 Others

APPELLANT

Vs

State Of Telangana And Another

RESPONDENT

Date of Decision : 10-01-2023

Acts Referred:

Indian Penal Code, 1860 — Section 34, 294(b), 323, 448
Code Of Criminal Procedure, 1973 — Section 482

Citation : (2023) 01 TEL CK 0025

Hon'ble Judges : K. Surender, J

Bench : Single Bench

Advocate : V Mallik

Final Decision : Allowed

Judgement

1. This Criminal Petition is filed to quash the proceedings against the petitioners/ A1 to A3 in C.C.No.661 of 2019 on the file of I Additional Magistrate of First Class at Jagtial.

2. The case of the 2nd respondent is that she was married to late Mohan Reddy, who is the son of the 3rd petitioner herein. Her husband died on 28.02.2017 and huge amounts were spent for his treatment in the hospital. After the death of her husband, petitioners allegedly asked her to leave the house. On 28.05.2017 around 12.00 noon, when the 2nd respondent was in the house, these three petitioners and two other persons threatened the 2nd respondent and injured her by beating her with hands. Since the petitioners were trying to send her away from her husband's house, she requested to take action against these petitioners and give protection.

3. The said complaint was lodged on 01.02.2018 and registered on the same day for the offences under Sections 448, 323, 294 (b) r/w 34 IPC. After concluding investigation, charge sheet was also filed for the said offences.

4. Learned counsel appearing for the petitioners would submit that a false

complaint is deliberately filed and there is a delay of nearly 9 months. Though, it is alleged that the incident happened on 28.05.2017 complaint was filed on 01.02.2018. The reason given for the delay is that she could not leave the house. However, she has been pursuing with revenue authorities for mutation in her name with respect to the property of her husband. She filed the said application for mutation along with notarized affidavit on 29.05.2017 and on 30.05.2017, objections were also filed by petitioners 2 and 3. In support of his contentions, he relied on the judgments of Hon'ble Supreme Court in the case of Ahmed Ali Quraishi & another v. State of Uttar Pradesh (2020 AIR (SC) 788), State of Karnataka v. M.Devendrappa (2002 LawSuit(SC) 56; Harshendra Kumar D v. Rebatilata Koley ETC (2011 LawSuit (SC) 74 and argued that criminal prosecution is a serious matter and the Court cannot issue proceedings mechanically. If it is found by the High Court that the criminal prosecution is deliberately made, such an abuse can be prevented under Section 482 of Cr.P.C.

5. On the other hand, Sri Gopala Krishna Kalanidhi, learned counsel for the 2nd respondent would submit that the 2nd respondent widow was subjected to harassment and she had to approach the authorities seeking justice. The delay is well explained and this Court should not interfere in the criminal prosecution. The trial court would ascertain the correctness or otherwise of the allegations made in the complaint, as such, the criminal petition has to be dismissed.

6. Admittedly, the 2nd respondent was pursuing with the Mandal Revenue Officer regarding mutation from 29.05.2017 itself and the proceedings were going. There are proceedings of the Grampanchayat dated 17.06.2017, pursuant to an application made by 2nd respondent to the village Panchayat. In the said proceedings, the Panchayat Secretary of Mothe Mandal has issued proceedings stating that the request of the 2nd respondent to mutate her name with respect to the property, which are flat Nos.101, 102, 302, 501 and 504 in Rajyalakshmi Apartment cannot be considered as it was joint family property.

7. A civil suit was also filed by the 2nd respondent on 02.02.2018, the next day of filing criminal complaint.

8. The reason given for the delay of nine months in filing the criminal complaint on the basis of record is incorrect and apparently false. When she was pursuing her civil remedy with the Grampanchayat and also the revenue office, it cannot be said that she was not in a position to move out and could not lodge the complaint.

9. In view of the ongoing civil disputes in between her and the family members, who are petitioners herein, the present criminal complaint appears to have been deliberately made with an intention to coerce the petitioners into settling the civil disputes. Such proceedings which are deliberately made to intimidate and pressurize the parties into settling disputes which are purely civil in nature; such criminal proceedings cannot be permitted to continue.

10. The alleged beating and trespass on 28.05.2017 cannot be believed. The

question of trespassing into one's own house does not arise. Admittedly, the 2nd respondent was staying in her matrimonial home after death of her husband. Except bald statement that she was beaten, there is no evidence forthcoming from any independent witnesses. In the back ground of the present case facts, wherein there are disputes regarding the property, the present complaint regarding trespass and beating cannot be believed as the same appears to have been made only to build pressure on the petitioners.

11. The Hon'ble Supreme Court in the case of Mohammed Ibrahim and others v. State of Bihar and another ((2009) 8 Supreme Court Cases 751) held that when disputes are essentially civil in nature, it is the duty of the criminal courts to check abuse of the process and see to that criminal proceedings are not misused to pressurize and settle civil disputes.

12. The Hon'ble Supreme Court in the case of Indian Oil Corporation v. NEPC India Limited and others ((2006) 6 Supreme Court Cases 736) held that when the disputes arise out of breach of contract and civil remedy was available, the allegations in the criminal complaint has to be considered and the High Court under Section 482 of Cr.P.C quash such criminal proceedings which are made with an intention of setting civil disputes.

13. Considering the delay of 9 months in lodging the complaint, nature of complaint and pending civil disputes, the petition stands allowed and consequently the proceedings against the petitioners 1 to 3 in C.C.No.661 of 2019 on the file of I Additional Magistrate of First Class at Jagtial are hereby quashed.

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